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Offered

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1 (The following proceedings were held in open court  
2 on December 14, 2005 at 9:04 a.m.:)

3 THE COURT: Good morning.

4 THE JURORS: Good morning.

5 THE COURT: Shall we continue?

6 MR. STILLEY: Yes, Your Honor.

7 THE COURT: Ms. Wills.

8 DIRECT EXAMINATION (Cont'd)

9 BY MR. STILLEY:

10 Q. Ms. Wills, is it true at page 7 of the Mountain Park  
11 handbook it says that telling a child when they will come  
12 home constitutes a reason to remove the child from Mountain  
13 Park?

14 A. Yes, sir.

15 MR. BRIGGS: Objection, Your Honor, relevance.

16 THE COURT: Sustained.

17 MR. STILLEY: Well, the handbook is in evidence, and  
18 it does go to --

19 THE COURT: We have to deal with what does that have  
20 to do with this case.

21 MR. STILLEY: Would you like me to --

22 THE COURT: We can go through every page of the  
23 handbook. We could be here forever.

24 MR. STILLEY: Your Honor, can I explain why that's  
25 relevant?

1 THE COURT: You need to get to why it's relevant and  
2 then ask that question.

3 BY MR. STILLEY:

4 Q. Ms. Wills, isn't it true that when a student is sent to  
5 Mountain Park that the contract calls for one full year of  
6 tuition?

7 MR. BRIGGS: Your Honor, same objection. At this  
8 point what's the relevance with respect to this? We went  
9 through this yesterday and you ruled.

10 THE COURT: Sustained.

11 Q. Isn't it also true that keeping secrets was forbidden  
12 to the students?

13 A. Yes, sir.

14 Q. And isn't it also true that whenever a student went on  
15 a leave, that the parents had to make a report of the visit?

16 A. Yes, sir.

17 Q. And one of the required items to be completed was  
18 whether or not that child had said anything about wanting to  
19 leave Mountain Park?

20 A. Yes, sir, I think so.

21 Q. And isn't it true that you wanted that information so  
22 that you could find out if the child --

23 MR. BRIGGS: Objection, Your Honor, this would be  
24 argumentative. I mean, we still haven't got to the relevance  
25 I don't think.

1 THE COURT: Well, we got into all those visit  
2 sheets, so I'll allow it. Go ahead.

3 BY MR. STILLEY:

4 Q. Isn't it true that the reason you wanted that  
5 information was to know if the child was still wanting to go  
6 home?

7 A. It helped us to deal with the child, yes, sir.

8 Q. And isn't it true that you said on numerous occasions  
9 that a student was not ready to go home until they didn't  
10 want to go home?

11 A. Yes, sir.

12 Q. So really that would give the child, if the child  
13 wanted to go home, they would have to say they didn't,  
14 correct?

15 MR. BRIGGS: Objection, Your Honor, that would call  
16 for speculation.

17 THE COURT: Sustained.

18 BY MR. STILLEY:

19 Q. Mountain Park had a policy concerning girls that missed  
20 their periods during the times relevant to this lawsuit,  
21 correct?

22 A. Yes, sir.

23 Q. And can you tell the jury what that policy was?

24 A. That if a girl missed three months of her period then  
25 she was to go to the doctor.

1 Q. And was that only upon request of the student?

2 A. That was only if we knew that the child had missed her  
3 period.

4 Q. Did you ever ask if the child was missing a period?

5 A. If I knew a child had missed her period for one month,  
6 then I would go back again and ask her if she had a period  
7 yet.

8 Q. Were you aware that any of the plaintiffs in this case  
9 were missing their periods?

10 A. I don't remember it, no, sir.

11 Q. Isn't it true that not a single one of these girls were  
12 taken to the doctor with respect to a complaint about  
13 cessation of menses?

14 A. I don't remember that either.

15 Q. Isn't it true that you had a policy to keep records of  
16 the times that the girls were taken to the doctor?

17 A. We had an appointment book where we made our  
18 appointments with the doctor.

19 Q. And in that appointment book you put down the reason  
20 for the visits, correct?

21 A. I don't remember putting down the reasons. We just had  
22 the girl had an appointment with the doctor.

23 Q. Well, isn't it fair to say if that visit was made or an  
24 appointment with the doctor was scheduled for the purpose of  
25 dealing with cessation of menses, you would be able to go

1 back and find that?

2 A. Not necessarily, no, sir.

3 Q. Well, did you have a particular doctor that you took  
4 the girls to?

5 A. Yes, sir, we did.

6 Q. Who was it?

7 A. Dr. Richard Gayle.

8 Q. Was he the proper doctor that you took the girls to for  
9 this problem for the duration of the period relevant to this  
10 lawsuit?

11 A. Yes, sir.

12 Q. So if the girls had actually been taken to this doctor,  
13 the doctor should have a record of that too, correct?

14 A. Yes, sir.

15 Q. And also I believe you said in your deposition that if  
16 the girls missed their period for at least three months, they  
17 would get some kind of hormone therapy; is that correct?

18 MR. BRIGGS: Objection, Your Honor, at this point if  
19 he's referring to another document like a deposition, let's  
20 refer to the document.

21 THE COURT: Well, let's see if this witness recalls  
22 first.

23 A. Repeat your question again.

24 Q. Do you recall saying in your deposition that if the  
25 girls missed their periods for three months, that you would



1 take them to get a prescription for some sort of hormones?

2 A. I would do whatever the doctor told me to do. If he  
3 gave them hormones, they would take them.

4 Q. So it would be simply up to the doctor to decide what  
5 to do, correct?

6 A. Yes, sir, it wouldn't be up to me.

7 Q. Now, you told us yesterday that the reason for shutting  
8 down Mountain Park was because of your husband's health; is  
9 that correct?

10 A. Yes, sir.

11 Q. Isn't it really true that the main operations --

12 MR. BRIGGS: Objection, Your Honor, this would be  
13 argumentative at this point.

14 THE COURT: Sustained.

15 MR. STILLEY: Your Honor, can we approach on that?

16 THE COURT: No. Shutting down the school is not  
17 relevant to this lawsuit.

18 BY MR. STILLEY:

19 Q. Isn't it true that immediately before you shut down you  
20 only had about 30 or 40 students?

21 MR. BRIGGS: Objection, Your Honor.

22 THE COURT: Sustained.

23 A. We were gradually --

24 THE COURT: Well, you don't have to answer.

25 THE WITNESS: Okay.

1 Q. Did Mountain Park have a philosophy of mental health  
2 care?

3 MR. BRIGGS: Your Honor, I'm going to object at this  
4 point. This has been excluded from the case.

5 THE COURT: Sustained.

6 BY MR. STILLEY:

7 Q. Isn't it true that in your deposition you said that if  
8 the girls asked for their medicine, they would always get  
9 that medicine?

10 A. Yes, sir.

11 Q. And isn't it also true that you stated in your  
12 deposition that there would be a record of paddlings kept?

13 A. Yes, sir.

14 Q. So if there was a paddling of Tracey Ozuna, you should  
15 have a record of that, right?

16 A. We should have, yes, sir.

17 Q. And that record should say how many swats were given,  
18 correct?

19 A. Yes, sir.

20 Q. Did you check the records to see if you could find that  
21 record?

22 A. Mrs. Gerhardt did.

23 Q. And what was the result?

24 A. She didn't find a record.

25 Q. What is your net worth?

1 MR. BRIGGS: Objection, Your Honor.

2 THE COURT: Sustained.

3 MR. STILLEY: Pass the witness. Judge, can I  
4 approach on that?

5 THE COURT: No.

6 CROSS-EXAMINATION

7 BY MR. BRIGGS:

8 Q. Good morning, Mrs. Wills.

9 A. Good morning.

10 Q. Mrs. Wills, I want to start out just a little bit about  
11 kind of laying the land with respect to Mountain Park. You  
12 had answered some questions from Mr. Stilley about certain  
13 things that were on the Mountain Park campus, so I want to  
14 kind of help the judge and the jury understand how things  
15 were set up. Now, about how big was the campus at Mountain  
16 Park?

17 A. Well, the campus is 180 acres. The dorm is three  
18 stories with a school, church, dining hall, kitchen,  
19 apartment upstairs up front, and two apartments in the back  
20 and one apartment downstairs.

21 Q. Okay. So now you mentioned that there were some  
22 apartments. I guess is this kind of like a bunch of  
23 buildings that are all attached to each other?

24 A. Yes, sir.

25 Q. And just outside, I guess near the dining hall and the

1 church, is there a courtyard with a pool?

2 A. Yes, sir.

3 Q. And is there also another area just outside where there  
4 is basketball and volleyball courts.

5 A. The basketball court is inside right next to the dorm,  
6 and then the volleyball court is outside out in the play  
7 field.

8 Q. Now, Mr. Stilley had asked you something about some  
9 fencing. And I just want to clarify, is there some fencing  
10 around the pool and around the basketball court?

11 A. Yes, sir.

12 Q. And those are immediately adjacent to the dorm area,  
13 correct?

14 A. Yes, sir.

15 Q. Now, could you tell the judge and jury why there is  
16 some fencing in those areas?

17 A. We had a boys dorm on the outside of the fence, and  
18 that was to keep the boys out and keep the girls in.

19 Q. Very good. Now, Mrs. Wills, we heard some testimony  
20 from the plaintiffs with respect to fire exits and such.

21 Now, did the fire marshal come out and inspect Mountain  
22 Park's property?

23 A. Yes, he did.

24 Q. And he did that on a regular basis, didn't he?

25 A. Yes, sir.

1 Q. And he approved Mountain Park?

2 A. Yes, sir.

3 Q. Okay. Now, also with respect to the areas, I think you  
4 described that there was a front office attached to all these  
5 buildings; is that right?

6 A. Right next to my apartment, yes, sir.

7 Q. Okay. And so you actually had an apartment right in  
8 this cluster of buildings; is that right?

9 A. Yes, sir, I did.

10 Q. And was that also adjacent to the dining hall?

11 A. Yes, sir.

12 Q. With respect to the apartment then, I guess did you and  
13 Brother Wills actually live in the apartment?

14 A. Yes, sir, we did until March of 1996.

15 Q. Okay. And so that means you actually lived I guess  
16 down the hall kind of from the girls.

17 A. Well, it was the girls back here and then the dining  
18 hall and then the kitchen and then my apartment right next to  
19 the kitchen.

20 Q. Now, Mrs. Wills, tell me really what the ministry was,  
21 what you and Brother Wills were trying to achieve.

22 A. The Lord called Brother Wills and I in 1972 to minister  
23 to young girls in trouble, to teenagers in trouble. And he  
24 gave us such a burden for them until we wanted to start a  
25 ministry and start taking girls that had problems and to keep

1       them from going to detention centers and keep them from  
2       getting into more problems before it got really serious. And  
3       so our job -- our burden was to see that they got started in  
4       life, got a new start in life, could go to college. Some of  
5       these girls came in with backgrounds that --

6       Q.     Well, I tell you, I mean, were some of them, for  
7       examples, runaways?

8       A.     Yes, sir.

9       Q.     Now, this was really a devotion for you, wasn't it?

10      A.     Oh, yes, sir.

11      Q.     This wasn't the kind of thing where you could go home  
12      at the end of the day like a job?

13      A.     No, this is a 24-hour day. These were just like our  
14      own children.

15      Q.     And once again, you lived in an apartment that was down  
16      the hall essentially from the girls, right?

17      A.     Yes, sir.

18      Q.     Now, for a spell when you and your husband set up  
19      Mountain Park, who was doing the cooking?

20      A.     I was.

21      Q.     So does that mean actually you had to get up before the  
22      girls in the morning and prepare breakfast for them?

23      A.     Yes, sir, my day started at 4:30 in the morning.

24      Q.     And that was before the girls got up?

25      A.     Yes, sir.

1 Q. And typically then did you go to bed before the girls  
2 did?

3 A. Oh, no, sir. My night ended about 11 o'clock at night.

4 Q. When a student was enrolled at Mountain Park,  
5 Mrs. Wills, did you also develop a relationship with the  
6 student's parents?

7 A. Yes, sir.

8 Q. And over time those relationships grew, didn't they?

9 A. Yes, sir, they did.

10 Q. And even after the students left or graduated from  
11 Mountain Park, did you still keep in touch with the students  
12 and their parents?

13 A. Yes, sir.

14 Q. So there are circumstances where you've had long-term  
15 friendships and relationships developed, haven't you?

16 A. Yes, sir.

17 Q. And isn't it true, some of the folks with whom you  
18 developed those relationships are even here with you today?

19 A. Yes, sir, they are.

20 Q. I think we've already heard this, but isn't it the  
21 parents who enroll the student at Mountain Park?

22 A. Yes, sir.

23 Q. I guess maybe I should back up just a little bit.  
24 You've talked about your faith and your ministry. How would  
25 you describe the type of church that you have? I mean, I've

1 heard of Baptist churches and I've heard of Presbyterian  
2 churches. What are you all --

3 A. We're Independent Baptist.

4 Q. Independent Baptist?

5 A. Yes, sir.

6 Q. Now, relating back to the ministry and the devotion  
7 that you had, would it be fair to say that you were trying to  
8 put structure into these students' lives?

9 A. Yes, sir.

10 Q. And also you're trying to develop their worth and self  
11 image, weren't you?

12 A. Yes, sir.

13 Q. And at the same time, you've already talked about this,  
14 faith was a big part of your mission, wasn't it?

15 A. Yes, sir, it was.

16 Q. Now, were you also trying to get the students a  
17 positive outlook and hope for the future?

18 A. Oh, yes, sir.

19 Q. Now, first thing they talked about is structure. I  
20 take it then that Mountain Park, you all had kind of a pretty  
21 formal structure in how you did things, didn't you?

22 A. Yes, sir, we did.

23 Q. The students all got up at the same time every day?

24 A. Yes, sir, they all got up, went to bed, ate at the same  
25 time.



1 Q. And also did schooling at the same time?

2 A. Yes, sir.

3 Q. I think you already said that the girls and boys were  
4 kept separate, right?

5 A. Yes, sir, they were.

6 Q. Was there ever occasions when they really mixed?

7 A. Oh, yes, sir. We ate together. We went to church  
8 together. We had banquets together.

9 Q. Okay. But like going to school, that was separate?

10 A. They had separate rooms. They went to school at the  
11 same time, but they had separate rooms they were in.

12 Q. Now, as part of the structure, were there some rules  
13 that students had to follow?

14 A. Yes, sir.

15 Q. And did the rules include stuff like no cheating on  
16 school work?

17 A. Yes, sir.

18 Q. What were some of the other rules?

19 A. No cheating, no lying, no stealing, do your chores.

20 Q. No fighting, I take it?

21 A. No fighting.

22 Q. Now, how did the students learn these rules?

23 A. From other students.

24 Q. And I think we've already heard testimony that there  
25 was an orientation guide and program. Could you briefly

1 describe that for the judge and jury so they understand what  
2 we're talking about.

3 A. An orientation guide was a young lady that had been  
4 with us for awhile and she was doing very well. She was a  
5 saved young lady, and she had a desire to help another young  
6 girl that would come in. So we would give her that  
7 responsibility. And her responsibility was to outlove this  
8 girl, not to mistreat her, not to keep from going to the  
9 bathroom, not to do all these things, but to outlove and help  
10 her and help her to get adjusted to being at Mountain Park.

11 Q. Now, I think you said that the girls had to be saved.  
12 And I think that's a term that you use in your faith, and I  
13 know not everybody shares your faith. Could you briefly  
14 explain what that means for the judge and jury?

15 A. Being saved is when you accept Jesus Christ into your  
16 heart, and that you are saved and on your way to heaven and  
17 you want to help others.

18 Q. So these orientation guides are the more senior  
19 students, right?

20 A. Yes, sir.

21 Q. And you said they have to outlove their new students?

22 A. Every time I would meet with the orientation guide, I  
23 said if you're not outloving your student, then you're  
24 failing in your ministry to your student.

25 Q. So being an orientation guide, that was part of the

1 ministry, wasn't it?

2 A. Yes, sir.

3 Q. Now, we also heard some of that safety patrol, where  
4 some of the more senior girls I guess stayed up for an hour  
5 in the evening or overnight for safety and security. And  
6 tell me something, was that a voluntary position as well?

7 A. Yes, sir, it was.

8 Q. Was that another part of -- was that another way that  
9 students could be in the ministry?

10 A. Yes, sir, it was.

11 Q. Was another way students could work in the kitchen?

12 A. Yes, sir, many of them enjoyed working in the kitchen.

13 Q. Now, did you require the students at Mountain Park to  
14 be saved?

15 A. No, sir.

16 Q. Okay.

17 A. You can't require somebody to be saved.

18 Q. Can you explain why that is?

19 A. Because this is your own personal relationship with the  
20 Lord Jesus Christ, and you can't make somebody accept Jesus  
21 as their Savior.

22 Q. Now, even if a student wasn't saved, did they still  
23 have opportunities to participate in the ministry?

24 A. Yes, sir.

25 Q. Okay. Give me an example of that.

1 A. They could work in the kitchen. They could have  
2 outside the dorm duties, different things like this.

3 Q. I think you said this a moment ago, but, Mrs. Wills,  
4 we've heard that some orientation guides didn't allow their  
5 new student to go to the bathroom when they asked to. Was  
6 that permitted under this program?

7 A. No, sir, it was not.

8 Q. If you had found out that an orientation guide had  
9 taken that position, what would you do?

10 A. She would no longer be an orientation guide.

11 Q. Now, what about -- now, students had access to  
12 medication throughout the day; is that correct?

13 A. Yes, sir.

14 Q. And that was a program called medicine call?

15 A. Yes, sir.

16 Q. Now, we also heard testimony that orientation guides  
17 sometimes wouldn't let their student go to medicine call; is  
18 that right?

19 A. That's what I heard.

20 Q. Okay. Well, was that acceptable?

21 A. No, sir, it was not.

22 Q. And if you found out that an orientation guide had done  
23 that, what would you do?

24 A. Take her off of being an orientation guide.

25 Q. To be taken off -- being taken off as an orientation

1 guide, was that like a demotion?

2 A. Yes, sir.

3 Q. If a student had a health complaint, could they talk to  
4 the person, a staff member on medicine call about it?

5 A. Yes, sir, they could.

6 Q. Could they talk to other staff members about it?

7 A. Yes, sir.

8 Q. But going back to this issue about orientation guides,  
9 I guess since they could be demoted, could they also be  
10 disciplined or corrected if they engaged in the conduct we  
11 talked about a moment ago?

12 A. They could have written some lines or something like  
13 that, yes, sir.

14 Q. So, in essence, they are kind of treated just like all  
15 the other students?

16 A. Oh, yes, sir.

17 Q. Now, we just talked about discipline. There was a  
18 practice with respect to discipline, wasn't there?

19 A. Yes, sir.

20 Q. And was there kind of a hierarchy of correction if a  
21 student misbehaved or broke the rules?

22 A. Yes, sir.

23 Q. Could you kind of describe for the judge and jury what  
24 that was?

25 A. If a girl did something wrong then usually I would talk

1 with her, maybe twice, maybe three times, and then if that  
2 didn't work then we would have her do lines. If that didn't  
3 work then she would have extra duty. If that didn't work  
4 then we'd start taking some privileges away from her. We'd  
5 take her sweets away from her. We'd take her makeup away  
6 from her. Something that she really, really loved, we'd take  
7 away from her. And generally these things would work before  
8 it came to paddling. If none of that worked then she would  
9 get a paddling.

10 Q. Okay. So one part of time the paddling was part of the  
11 discipline practice?

12 A. Yes, sir.

13 Q. Now, let's go back a little. You said first one a  
14 couple of times that you talked -- that you dealt with a  
15 misbehavior issue, that you talked to the student, right?

16 A. Yes, sir.

17 Q. Now, we've heard some testimony that when you were  
18 talking to students that you sometimes had occasion to point  
19 at them with your finger; is that right?

20 A. Yes, sir.

21 Q. And actually Jamie Woods, one of the plaintiffs, has  
22 claimed that you actually poked her when you were talking  
23 to -- poked her with your finger right in the chest. Is that  
24 something that you've done before?

25 A. Yes, sir.

1 Q. Okay. And actually was that kind of well known by the  
2 students and staff at Mountain Park?

3 A. Yes, sir.

4 Q. Was there a particular euphemism they had for that?

5 A. Yes, sir.

6 Q. And what was that?

7 A. The bony finger.

8 Q. Now, just so the judge and jury understand what we're  
9 talking about, could you just stand up and demonstrate on  
10 yourself what the bony finger was like?

11 A. When I was talking to a girl and I felt like I really  
12 needed to get her attention, I would do it this way.

13 Q. And that was it, correct?

14 A. Yes, sir.

15 Q. You weren't intending to hurt them, were you?

16 A. No, sir.

17 Q. You weren't trying to cause them to lose their balance  
18 or fall down?

19 A. No, sir.

20 Q. Mrs. Wills, you mentioned that there were some other  
21 corrections that you had, writing lines, taking away sweets,  
22 assigning extra work duty. But you also talked about  
23 ultimately there was paddling. If a student didn't correct  
24 her behavior even after being paddled, what would happen?

25 A. If the paddling didn't work, then there's a policy we

1 had to send her home.

2 Q. So you'd ask the parents to pick her up and take her  
3 home?

4 A. Yes, sir.

5 Q. So in a sense paddling was really your final course of  
6 action before you just said that's it; is that right?

7 A. Yes, sir.

8 Q. And was it typical -- could a student be paddled just  
9 for misbehaving once?

10 A. No, sir.

11 Q. So there had to be multiple misbehaviors, correct?

12 A. Yes, sir.

13 Q. Could you describe for the judge and jury what your  
14 practice was with respect to paddling?

15 A. The girl would come into my office. And I had a chair  
16 in my office, and she would lean over the chair. And I would  
17 swat her with a paddle. And there would be a witness in  
18 there with me. And then after I got through paddling, I  
19 would sit her down and talk to her and tell her that I loved  
20 her, I was paddling her because I loved her. And she would  
21 sign the card and write down how many swats she got and why  
22 she got paddled, and then the witness would sign the card.

23 Q. So you always made a record of the student's paddle?

24 A. Yes, sir.

25 Q. Now, with respect to this issue, you said that you took



1 her into your office. Did you -- was it your practice to  
2 paddle the students in the office?

3 A. Yes, sir.

4 Q. It wasn't your practice to paddle students in any of  
5 the dorms, was it?

6 A. No, sir.

7 Q. Was it your practice to always talk to the student  
8 after the paddling and explain that you loved them?

9 A. Yes, sir.

10 Q. And, Mrs. Wills, who can authorize the paddling of a  
11 student?

12 A. Myself.

13 Q. Was there anybody else other than Brother Wills at  
14 Mountain Park who could authorize the paddling of a student?

15 A. No, sir.

16 Q. Now, with respect to girls, were you the only one who  
17 could authorize paddling?

18 A. Yes, sir.

19 Q. Your daughter, Debbie Gerhardt, is also a defendant.  
20 Could she authorize a student to be paddled?

21 A. No, sir, she could not.

22 Q. Could a staff member take it upon herself to paddle a  
23 student without your specific authority?

24 A. No, sir, she could not.

25 Q. And, indeed, now you said that even into 1996 you were

1 living in the apartment next to the dorm, weren't you?

2 A. Yes, sir.

3 Q. So was it also your practice then that if you were  
4 there, you were the one who paddled the student?

5 A. Yes, sir, I did.

6 Q. Now, Tracey Ozuna, one of the plaintiffs in this case,  
7 I think you've heard her testimony. She claims that she was  
8 paddled by a staff member who is not a defendant in this  
9 case. Did you ever give authority for Tracey Ozuna to be  
10 paddled?

11 A. I don't remember ever giving authority for Tracey to be  
12 paddled.

13 Q. And was it your practice to remember the students you  
14 paddled?

15 A. Most of them, yes, sir.

16 Q. Now, Ms. Ozuna also claims that Ms. Mathews, the staff  
17 member who is not a defendant, that she paddled her in a  
18 dormitory. Was that an acceptable practice?

19 A. No, sir.

20 Q. Now, where was this paddle kept?

21 A. In my office.

22 Q. And about how big was it? Could you describe it?

23 A. I guess it was about that long and maybe about that  
24 thick and had a handle. You couldn't get two hands on the  
25 handle, you could just only put one hand on the handle.

1 Q. And when you paddled a student, where did you paddle  
2 them at?

3 A. On their bottom.

4 Q. And were they fully clothed?

5 A. Yes, sir.

6 Q. What was the maximum number of paddlings you would give  
7 or spankings -- I guess what's the maximum number of times  
8 that you would use the paddle on a student?

9 A. About five.

10 Q. Now, Mrs. Wills, I think you told Mr. Stilley yesterday  
11 that at one point you had probably somewhere around 200  
12 students at Mountain Park; is that right?

13 A. Yes, sir.

14 Q. That seems like an awful lot of students to have at  
15 once, isn't it?

16 A. Yes, sir.

17 Q. I imagine did a lot of health care issues come up with  
18 respect to the students?

19 A. Yes, sir.

20 Q. Now, had some of the girls been prescribed medication  
21 that they had to take?

22 A. Yes, sir.

23 Q. Where was the medication kept?

24 A. We had what we call our medicine cabinet hall closet in  
25 the girls' dorm.

1 Q. So inside the dormitory there was a closet. Can you  
2 describe how the closet was set up?

3 A. Yes, sir, there were shelves all in the closet. And  
4 there were little boxes with the girls' medicine in it with  
5 their initial or name on it. And the worker would have a  
6 podium that she would pull out with the log on there, and  
7 then she gave medicine out. She would put the date, what  
8 kind of medicine she was giving, how many times a day she was  
9 giving it, and then she would sign it.

10 Q. Okay. Now, this log, was this like a three-ring  
11 notebook?

12 A. Yes, sir.

13 Q. Okay. And each student had a page in the notebook?

14 A. Yes, sir.

15 Q. When -- well, I guess tell me something, if a student  
16 was given vitamins, was that put into the log?

17 A. No, sir. We had a separate column for vitamin call.

18 Q. How would the students know that -- well, strike that.  
19 Were there set times throughout the day when the students  
20 could come and get medicine?

21 A. Morning, noon, and evening. But when medicine call  
22 started, you could hear the girls hollering, "Medicine call,  
23 medicine call, medicine call," all through the dorm.

24 Q. And would all the girls line up at once?

25 A. Yes, sir.

1 Q. So sometimes there would be a whole gaggle of them?

2 A. There would.

3 Q. Was it you who always did the medicine call?

4 A. No, sir.

5 Q. Was this assigned to other staff members?

6 A. Yes, sir, it was.

7 Q. With respect to those staff members, was it a position  
8 of responsibility?

9 A. Yes, sir, big responsibility.

10 Q. Now, in addition to prescription medications, did  
11 Mountain Park also keep some over-the-counter medications in  
12 the medicine cabinet?

13 A. Yes, sir, we did.

14 Q. And did those medications include stuff like Tylenol or  
15 Excedrin for headaches?

16 A. Yes, sir.

17 Q. Was there always a preparation in there for kids who  
18 had cold symptoms too?

19 A. Yes, sir, all kinds of cold medicine.

20 Q. And did you also keep medication for the girls if they  
21 had cramps in relation to their periods?

22 A. Yes, sir, Midol and Pamprin.

23 Q. Were there occasions that you got generic versions of  
24 those also?

25 A. Yes, sir.

1 Q. And if a student was given oral medication, so a pill  
2 or some type of syrup or something like that, that was put  
3 down in the medication log, right?

4 A. Yes, sir.

5 Q. Now, at some point in time did you also keep  
6 over-the-counter acne medication for the students?

7 A. Yes, sir, they could have their parents send anything  
8 they wanted for them for that.

9 Q. And would that be kept in a medicine closet?

10 A. Yes, sir.

11 Q. So the student could come and get that whenever there  
12 was medicine call?

13 A. Medicine call, yes, sir.

14 Q. Would the acne medication, you know, like a cream or  
15 something like that, would that be recorded in the medication  
16 log?

17 A. No, sir.

18 Q. Why was that?

19 A. It wasn't oral medication, it was just something  
20 applying to their face, so we didn't mark that down.

21 Q. Now, with all the students you had, I imagine you had  
22 to take them to the doctor fairly regularly, at least some of  
23 them, right?

24 A. Yes, sir.

25 Q. Were staff taking students to the doctor several times

1 a week?

2 A. Oh, yes, sir.

3 Q. Is there a doctor who you called on most often?

4 A. Yes, sir, Dr. Richard Gayle.

5 Q. And you've already talked a little about Dr. Gayle. Do  
6 you know where he kept his office?

7 A. Yes, sir, Piedmont.

8 Q. Now, is that near the Mountain Park campus?

9 A. Yes, sir, it is.

10 Q. Did you have a good long-standing relationship with  
11 Dr. Gayle?

12 A. Yes, sir, I do.

13 Q. So could you call him at night if you had to?

14 A. Yes, sir.

15 Q. Were there occasions that you called Dr. Gayle with  
16 respect to certain complaints that a student had, students  
17 had before you actually just set up appointments for them?

18 A. Yes, sir, sometimes.

19 Q. Now, Mr. Stilley has asked you some questions about  
20 students missing their periods. When students had complaints  
21 about missing their periods, you said you'd take them to  
22 Dr. Gayle; is that right?

23 A. Yes, sir.

24 Q. And over time did Dr. Gayle give you some  
25 recommendations and advice with respect to students missing

1 their periods?

2 A. Yes, sir, I even had to take them to the hospital in  
3 Poplar Bluff because they would have female problems that he  
4 couldn't handle that he said they need to go see a female  
5 doctor up in Poplar Bluff.

6 Q. When you say female doctor, do you mean like  
7 obstetrician gynecologist?

8 A. Yes, sir.

9 Q. Did you talk to Dr. Gayle about the female students  
10 missing their periods?

11 A. Yes, sir.

12 Q. What did he have to say with respect to that?

13 A. I really can't remember except that he seemed like he  
14 says that they are in a new environment, they are having to  
15 do things that they don't want to do and things like this.  
16 It's like going off to college, that many students that go  
17 off to college start missing their periods.

18 Q. Did he tell you that if a student missed one period,  
19 that she should be taken in to see him?

20 A. No, sir.

21 Q. What did he tell you about students if they were  
22 missing their periods per say more than one month?

23 A. About three months, he said, three or four months, no  
24 longer than that, to bring them in and let him check them and  
25 see if there's something physically wrong or if he could give



1       them some kind of medication that they could get started.

2       Q.       But I guess in order to know if a girl is missing her  
3       period, did they kind of have to tell you?

4       A.       Yes, sir, they have to tell me.

5       Q.       If a student needed to see the doctor, could they get  
6       to the doctor?

7       A.       Yes, sir.

8       Q.       Now, we heard from one of the plaintiffs that one of  
9       the staff members had said that they couldn't go to a doctor  
10       or dentist for the first four months that they are at  
11       Mountain Park. Was that the practice at Mountain Park?

12       A.       No, sir. You also heard a girl say she went in the  
13       back door. That's because she was a new student and  
14       Dr. Gayle would let us come to the back door so we wouldn't  
15       sit there all morning with a new student waiting to get in to  
16       see him.

17       Q.       So his clinic, was that kind of operated like a first  
18       come first serve kind of thing?

19       A.       Yes, sir.

20       Q.       Now, with respect to this four month policy, what was  
21       the practice at Mountain Park?

22       A.       Four months is when they'd have their first visit, not  
23       when they go to the doctor, but when they have their first  
24       visit. And that four months is for an orthodontist. We  
25       didn't take them for four months for an orthodontist. But

1 for any other thing we would take them to the doctor or the  
2 dentist.

3 Q. When you say four months for the first visit, is that  
4 with the parents?

5 A. Yes, sir.

6 Q. Jamie Woods is complaining that she swallowed a safety  
7 pin. Do you remember hearing that testimony?

8 A. Yes, sir.

9 Q. Do you have a recollection of the incident, I guess  
10 kind of what she described?

11 A. Yes, sir, I do.

12 Q. What day of the week was that?

13 A. I don't know exactly what day. I do know that  
14 Dr. Richard was not in the office, I had to call him at home.

15 Q. And what happened? I guess, were you actually there  
16 when she swallowed it?

17 A. No, sir, I think I was in the kitchen and Ms. Gerhardt  
18 sent for me.

19 Q. And so did you go to see Jamie at that point?

20 A. Yes, sir, I did.

21 Q. Now, could Ms. Woods speak to you at that point?

22 A. Yes, sir, she did.

23 Q. What did she say to you?

24 A. I just asked her what happened. She said she swallowed  
25 a safety pin. And I said, "Why did you do that?" She said,

1 "Because I want to go to the hospital." So I went upstairs  
2 and called Dr. Richard.

3 Q. Now, did you discipline or correct her with respect to  
4 that?

5 A. No, sir.

6 Q. When you went upstairs, you said you called  
7 Dr. Richard?

8 A. Yes, sir.

9 Q. Did you actually speak with him?

10 A. Yes, sir, I did.

11 Q. And what were you told to do?

12 A. He told me to give her two slices of bread to eat. And  
13 I did that.

14 Q. Now, we heard something about castor oil too.

15 A. I do not remember the castor oil, no, sir.

16 Q. Were you instructed to take her to his office or the  
17 hospital?

18 A. No, sir, he said she would be fine just eating the  
19 slices of bread.

20 Q. And based on her testimony, I guess what we heard was  
21 she did actually secrete the safety pin; is that right?

22 A. Yes, sir.

23 Q. Mrs. Wills, we heard from Jessica Deboi that she had  
24 complained about being constipated. Do you have a specific  
25 recollection of giving her anything with respect to that?

1 A. No, sir. When the girls were constipated, we would  
2 give them prunes, prune juice, Metamucil, different things  
3 like this. And I don't remember the girls that were  
4 constipated, no, sir.

5 Q. And did any of the plaintiffs who are sitting at the  
6 table, did they ever complain to you about being groggy or  
7 lethargic?

8 A. No, sir, they sure didn't. They all seemed to get  
9 their memory work and all this. And I don't know how you  
10 could do your memory work when you're groggy and couldn't  
11 function.

12 Q. Now, with respect to Ms. Teasley, she was at Mountain  
13 Park in early 2003. Mrs. Wills, were you actually living on  
14 Mountain Park campus at that point?

15 A. No, sir, I wasn't.

16 Q. I believe actually you had earlier testified that you  
17 were spending time in Florida; is that right?

18 A. Yes, sir.

19 Q. And do you recall, is that where you were in early  
20 2003?

21 A. Yes, sir.

22 Q. Might you have visited the campus even briefly during  
23 that time period?

24 A. I did, yes, sir.

25 Q. Did Ms. Teasley ever complain to you about having a

1 toothache or chipped tooth?

2 A. No, sir. I don't really remember Ms. Teasley much, but  
3 she said that we were on the ball field playing one day when  
4 I was there, that she came up and the girls introduced her to  
5 me.

6 MR. BRIGGS: That's all I have at this time. Thank  
7 you, Mrs. Wills.

8 THE COURT: Mr. Stilley.

9 REDIRECT EXAMINATION

10 BY MR. STILLEY:

11 Q. You told us the fences were to keep the boys and girls  
12 separate, right?

13 A. Right, to the keep them in and keep them out.

14 Q. The fences were about 12 feet tall, correct?

15 A. Yes, sir.

16 Q. They had barbed wire on both sides?

17 A. Yes, sir.

18 Q. You really didn't need such tall fences just to keep  
19 the boys and girls separate, did you?

20 MR. BRIGGS: Objection, Your Honor, argumentative.  
21 Calls for speculation.

22 THE COURT: Refrain from arguing with the witness.

23 BY MR. STILLEY:

24 Q. Well, you also had your orientation guide system to  
25 keep the boys and girls separate, correct?

1 A. Correct.

2 Q. So -- well, the students were told that they not only  
3 could not -- the girls were told that they not only could not  
4 go to the boys, they could not go outside the fence without  
5 permission, correct?

6 A. No, they could not go outside without permission,  
7 correct.

8 Q. Now, you said that you had the fire marshal inspect the  
9 facility, correct?

10 A. Correct.

11 Q. That always happened when the girls were gone; isn't  
12 that correct?

13 A. No, sir, that isn't correct.

14 Q. That's not correct?

15 A. No, sir.

16 Q. He sometimes inspected the facility when the girls were  
17 there?

18 A. Yes, sir.

19 Q. Now, you said you started this ministry in 1972. Is  
20 this true?

21 MR. BRIGGS: Objection, Your Honor, that  
22 mischaracterizes her earlier testimony.

23 THE COURT: Well, I'm sure it will be straightened  
24 out.

25 Q. Well, maybe I wrote this down wrong. When did you say

1     you started the ministry?

2     A.     We started this ministry in 1987.

3     Q.     And you said you were trying to keep the girls from  
4     detention centers?

5     A.     Yes, sir.

6     Q.     As a matter of fact, your own facility was a --

7             MR. BRIGGS: Your Honor, objection, argumentative.  
8     This has been excluded.

9             MR. STILLEY: They raised the question. That's what  
10    they said, they were trying to keep the kids out of detention  
11    facilities.

12            MR. BRIGGS: Your Honor, we actually discussed this.

13            THE COURT: Rephrase your question.

14    BY MR. STILLEY:

15    Q.     Well, isn't it fair that you wanted them, the girls,  
16    not to be in any other detention facility?

17            MR. BRIGGS: Same objection, Your Honor. If -- side  
18    bar.

19            MR. STILLEY: I'll withdraw that question. Move on  
20    down the road.

21            MR. BRIGGS: Your Honor, if you can instruct the  
22    jury, please, to disregard the prior question?

23            THE COURT: No.

24    BY MR. STILLEY:

25    Q.     Now, you told us about this ministry that you devoted

1 so much time to, correct?

2 A. Yes, sir.

3 Q. Isn't it true that for most of the time periods  
4 relevant to this lawsuit, you flew in your own private  
5 airplane back and forth between Mountain Park and your air  
6 strip in Florida?

7 MR. BRIGGS: Objection, Your Honor. Your Honor,  
8 objection. This is totally outside the scope of the case.

9 MR. STILLEY: She is making out that she was there  
10 nearly all the time, and it's not true.

11 MR. BRIGGS: Your Honor, if we're going to argue  
12 this, could we do it at side bar, please.

13 THE COURT: Well, I think you need to keep all the  
14 embellishments out of your question, Mr. Stilley. I will  
15 allow you to inquire as to when Ms. Wills was there. But you  
16 are, as they say, gilding the lily.

17 MR. STILLEY: I am what?

18 THE COURT: It's just like going to, what's that  
19 place, they say you get extra sauce, take the extra sauce  
20 off.

21 MR. STILLEY: Let me see if I can make this simpler.

22 BY MR. STILLEY:

23 Q. Isn't it true that during the periods relevant to this  
24 lawsuit that you also owned a property --

25 MR. BRIGGS: Your Honor, objection. This has been



1 excluded. We've talked about this.

2 MR. STILLEY: Your Honor.

3 MR. BRIGGS: This is outside the scope.

4 THE COURT: Well, I'm going to allow you your  
5 questions about -- that relate to the time and frequency of  
6 this witness being at Mountain Park. Now, confine it to  
7 that. If you focus on something else, you got a problem,  
8 okay. You need to focus. You know, too many times you're on  
9 the periphery instead of shooting this thing in the heart in  
10 terms of the question you want to ask. You need to go to the  
11 center and then you can -- you might extrapolate then. You  
12 need to deal with what is relevant, the times that Mrs. Wills  
13 was at Mountain Park.

14 MR. STILLEY: I'll take care of it this time, Judge.

15 Q. Ms. Wills, isn't it true that you had other girls at a  
16 school in Florida who also --

17 MR. BRIGGS: Your Honor, objection. This has been  
18 specifically excluded from the case.

19 MR. STILLEY: Your Honor, I'm specifically trying to  
20 hit straight to the heart that she's saying she loves these  
21 girls and spends so much --

22 THE COURT: Hold on. You don't have to go so much  
23 into some other location. Why don't you get to the heart of  
24 the matter. You seem to always start with what's on the  
25 periphery. The focus is when, the times she was at Mountain

1 Park. You seem to focus on something else. If that's the  
2 gist of your question, which I'll allow, but you're someplace  
3 else. You're over at some other place. You need to start at  
4 Mountain Park.

5 BY MR. STILLEY:

6 Q. Isn't it true that you spent, or for much of the time  
7 relevant to this lawsuit that you spent the majority of your  
8 time outside of the state of Missouri?

9 A. I spent some time outside the state of Missouri, yes,  
10 sir, I was in Florida. But I was back and forth to Mountain  
11 Park.

12 Q. And you would fly between those two places, correct?

13 A. Drive or fly.

14 Q. And when you flew, you flew your --

15 MR. BRIGGS: Your Honor, objection. This is outside  
16 what you just limited to. May I approach?

17 THE COURT: We're talking times.

18 MR. STILLEY: We're talking time.

19 THE COURT: Yes, time.

20 MR. STILLEY: Flying and driving takes different  
21 amounts of time. So --

22 THE COURT: Yeah, well, you want to embellish again.

23 MR. STILLEY: I just want the basic facts, Judge.

24 THE COURT: Right. Go ahead. Let's try it.

25 BY MR. STILLEY:

1 Q. About how many trips back and forth would you make  
2 between Missouri and Florida per month during the time  
3 periods relevant to this lawsuit?

4 A. Most of the time until 1998 I was at Mountain Park.  
5 About 1998 I started spending more time in Florida.

6 Q. And isn't it true that after 1998 you spent the  
7 majority of your time in Florida?

8 A. The majority of time, yes, sir.

9 Q. So other people were handling the day-to-day affairs at  
10 Mountain Park at that point in time, correct?

11 A. Yes, sir, but I was in contact with those people.

12 Q. And generally speaking when you were in Florida, your  
13 husband was in Florida too, correct?

14 A. Correct.

15 Q. And the operations of Mountain Park functioned more or  
16 less as planned for several years after 1998, correct?

17 A. Rephrase your question.

18 Q. Isn't it true that Mountain Park operated, functioned  
19 normally as you had planned it to function for several years  
20 after 1998?

21 A. We had made some changes during that time.

22 Q. But the school functioned the way you wanted it to  
23 function?

24 A. Yes, sir.

25 Q. And someone else was as a general rule on the ground

1 operating that school?

2 A. Yes, sir.

3 Q. Now, you said that you still keep in touch with a lot  
4 of the girls, correct?

5 A. Yes, sir.

6 Q. Tracey Ozuna sent you a letter, did she not?

7 A. No, sir.

8 Q. She did not send you a letter?

9 A. She didn't send me one, no, sir.

10 Q. Did she send someone a letter?

11 A. Yes, sir.

12 Q. Did you have an opportunity to see the letter?

13 A. Yes, sir, I saw that letter.

14 Q. Did you typically -- if a girl wrote a letter, would  
15 you typically respond to that letter?

16 A. Not necessarily, no, sir. I have boxes and boxes of  
17 letters that I got from the girls.

18 Q. Now, you said that girls could be orientation guides  
19 only if they were saved?

20 A. Yes, sir.

21 Q. They had to make a profession of faith?

22 A. Yes, sir.

23 Q. And they had to satisfy you as to the genuineness of  
24 that profession?

25 A. Well, we had to know that the girl was really true in

1 what she wanted to do with the student, yes, sir.

2 Q. Just because they made a profession of faith wasn't  
3 good enough, correct?

4 A. No, sir. All girls that make profession of faith did  
5 not become orientation guides.

6 Q. Well, that's not the question. In order to be  
7 qualified to be an orientation guide, they had to satisfy you  
8 that they were truly converted?

9 A. Yes, sir.

10 Q. And being an orientation guide gave the student much  
11 more liberty than they had otherwise, correct?

12 A. No, sir, it did not.

13 Q. It did not give them more liberty?

14 A. No, sir, it did not.

15 Q. Didn't give them more privileges?

16 A. No, sir, it did not.

17 Q. They just decided that they wanted to do that?

18 A. They decided they wanted to help a new student as she  
19 came into the dorm, yes, sir.

20 Q. Was that just kind of a ministry thing, kind of like  
21 your ministry?

22 A. That was their ministry.

23 Q. Now, I asked you some questions about the fence  
24 earlier. As a general rule the fence did its job of keeping  
25 the kids where you wanted the kids; is that correct?

1 A. Yes, sir.

2 Q. And isn't it true that right before the school was  
3 closed down, there was a rash of runaways?

4 MR. BRIGGS: Objection, Your Honor, this is outside  
5 the scope. Also relevance.

6 MR. STILLEY: They testified about the fence. They  
7 asked questions about the fence. I'm just asking about the  
8 function of that fence.

9 MR. BRIGGS: Raising this issue, it's outside the  
10 scope. There's no relevance. Please move to strike, Your  
11 Honor.

12 THE COURT: I'm going to sustain and grant the  
13 request that it be stricken and the jury to disregard.

14 BY MR. STILLEY:

15 Q. Now, you said that the students learned the rules from  
16 their orientation guide, correct?

17 A. From other students, their orientation guide, yes, sir.

18 Q. Was there a particular reason not to have written  
19 rules?

20 A. No, sir.

21 Q. Well, actually you had the written rules, correct?

22 A. We had the handbook, yes, sir.

23 Q. And that contained the written rules?

24 A. Yes, sir.

25 Q. Students just weren't allowed to actually read those

1 rules, correct?

2 A. We gave the handbook to the parents. The parents could  
3 have read it to them. The parents, when they went on visit,  
4 they could have seen it.

5 Q. But the student only had ten minutes to talk to their  
6 parents, correct?

7 A. On the telephone, ten minutes twice a month, yes, sir.

8 Q. And the parents didn't know that the student didn't  
9 have the handbook, correct?

10 A. I don't know that.

11 Q. You didn't do anything to tell the parents that the  
12 student wouldn't have a handbook, did you?

13 MR. BRIGGS: Your Honor, at this point I'm going to  
14 interpose an objection. This wasn't raised in my cross.  
15 This is outside the scope. And he's already touched on this  
16 in his own direct.

17 THE COURT: I think you're outside the scope of  
18 cross-examination.

19 MR. STILLEY: Well, Your Honor, my notes here say  
20 that she testified on cross that the students learned the  
21 rules from the other orientation guides. That's what I've  
22 got written down.

23 THE COURT: Okay. Well, what do you want to ask  
24 about that?

25 MR. STILLEY: Well, I'm trying to find out why it

1 was not allowed for the students --

2 THE COURT: Well, then you need to go to that. Go  
3 to that. And extrapolate out and maybe you may get  
4 somewhere.

5 BY MR. STILLEY:

6 Q. Now, didn't you testify that the students were never  
7 prevented from going to the bathroom when they needed to to  
8 your knowledge?

9 A. To my knowledge they were never prevented from going to  
10 the bathroom when they needed to.

11 Q. Isn't it true that you have personal knowledge of some  
12 of the students who urinated and defecated on themselves?

13 MR. BRIGGS: Your Honor, objection. It has been  
14 excluded, Your Honor.

15 THE COURT: Well, I'm going to give you some leeway  
16 about this rest room situation. Go ahead. Overruled.

17 BY MR. STILLEY:

18 Q. Did you understand the question?

19 A. Ask it again, please.

20 Q. Isn't it true that you had personal knowledge that some  
21 of the students urinated and defecated on themselves?

22 MR. BRIGGS: Same objection, Your Honor.

23 THE COURT: Overruled.

24 A. I don't remember it, no, sir.

25 Q. Isn't it true that some of the students urinated in



1 their beds?

2 A. Some of them have, yes, sir.

3 Q. Isn't it true that the students were punished for  
4 that?

5 A. Not to my knowledge they were not.

6 Q. Isn't it true that in the dorms there were motion  
7 detectors to detect when a girl got up to go to the bathroom?

8 A. The motion detector was to make sure everybody stayed  
9 in bed, yes.

10 Q. And if they got up, there would be a guard there and  
11 they couldn't go to the bathroom without permission, correct?

12 A. There was not a guard there, no, sir. There were  
13 students, other students there, and they could let them go to  
14 the bathroom, yes, sir.

15 Q. What would be done if a girl or a boy urinated in their  
16 bed, what would happen to them?

17 A. Well, they would have to --

18 MR. BRIGGS: Your Honor, I'm going to object.  
19 Again, this is outside th scope. It doesn't relate to these  
20 plaintiffs. And this was not raised in cross.

21 MR. STILLEY: It does relate to these plaintiffs.

22 THE COURT: I'm going to give a little leeway. Go  
23 ahead with this question and move on.

24 A. They'd have to get up and change their clothes and wash  
25 their sheets, put clean sheets on their bed. They would have

1 to get their mattress outside and air it out, put clean  
2 sheets on their bed, wash their sheets.

3 Q. Isn't it true that some of the students were forced to  
4 sleep without a mattress because of this problem?

5 A. No, sir.

6 Q. Isn't it true that at certain times the girls would be  
7 watched while they toileted?

8 A. No, sir.

9 Q. That never happened?

10 A. No, sir.

11 Q. Isn't it true that for at least some periods of time  
12 relevant to this lawsuit that the girls' toilets did not have  
13 stall doors?

14 A. There was a time we did not have stall doors, yes, sir,  
15 that's when we were rebuilding, remodeling.

16 Q. Isn't it true that when a girl who was on orientation  
17 and went to the bathroom, that her orientation guide would go  
18 with her?

19 A. She would go to the bathroom with her, but she would  
20 stand at the door and let the girl go to the bathroom by  
21 herself. That's what she was supposed to do.

22 Q. But was there no door on the stall that the girl could  
23 close?

24 A. There was dividers, but there was no doors there, but  
25 she didn't have to stand in front of her.

1 Q. Now, you testified that the paddling ceased at some  
2 point in time, correct?

3 A. Yes, sir.

4 Q. When did that happen?

5 A. Probably about 1998.

6 Q. And there was a particular reason for that, was there  
7 not?

8 A. Because my husband and I decided to stop it.

9 Q. Was that all that there was?

10 A. Yes, sir.

11 Q. No external factor?

12 A. No, sir.

13 Q. Now, you testified a little bit about the conditions  
14 under which a paddling would be appropriate?

15 A. Yes, sir.

16 Q. You also heard Tracey Ozuna testify about the  
17 circumstances of the paddling that she alleges, correct?

18 A. Yes, sir.

19 Q. Isn't it true that a paddling would be totally  
20 inappropriate under those circumstances?

21 A. Yes, sir.

22 Q. Isn't it true that if there was a prior discipline to  
23 be used as a basis for the paddling that that prior  
24 discipline should have been written down?

25 A. That prior discipline was not written down. The only

1 discipline that was written down was the paddlings.

2 Q. Didn't you say you first try to use other methods?

3 A. Yes, sir.

4 Q. Are you telling me that those other disciplines were  
5 not recorded anywhere?

6 A. No, sir, they were not.

7 Q. So we wouldn't have any way to know from a written  
8 record whether or not there was previous discipline on Tracey  
9 Ozuna, correct?

10 A. No, sir, you wouldn't.

11 Q. Now, the paddle was only seen when a student was being  
12 paddled, correct?

13 A. Correct.

14 Q. Do you have that paddle? Is that paddle still  
15 available?

16 A. Not that I know of.

17 Q. Now, are you saying that you were the only one who  
18 could have authorized a paddling at the time that Tracey  
19 Ozuna alleges she was paddled?

20 A. Yes, sir.

21 Q. If there was an unauthorized paddling, is it not fair  
22 to say that you would have gotten information about that?

23 A. Yes, sir, I would have.

24 Q. If an unauthorized paddling had been administered, what  
25 would you have done?

1 A. I would have corrected the worker that did it.

2 Q. You would have also made a written record of that,  
3 would you not?

4 A. Yes, sir.

5 Q. That would be a very important thing?

6 A. That would be in the worker's file, yes, sir.

7 Q. And there's nothing in Ms. Mathews file to indicate  
8 that she was disciplined, correct?

9 A. Correct.

10 Q. Now, didn't I hear you testify in response to  
11 Mr. Briggs' questioning that the maximum number of swats was  
12 about five?

13 A. Five, yes, sir.

14 Q. What does about five mean?

15 A. Five, five swats.

16 Q. So it's not about five, it's exactly five?

17 A. Yes, sir. It could be less than five, but five was the  
18 maximum.

19 Q. Why would you say then -- or do you recall saying that  
20 it was about five?

21 A. Yes, sir.

22 Q. Why would you say about five instead of saying exactly  
23 five?

24 A. I don't know.

25 Q. Isn't it true that you had many other complaints of

1 denial of medication of students?

2 A. Ask that question again.

3 Q. Isn't it true that many students other than these  
4 students who are plaintiffs in this case have complained  
5 about denial of medication?

6 MR. BRIGGS: Objection, this is outside the scope.  
7 This doesn't relate to the plaintiffs. This has already been  
8 excluded by The Court.

9 THE COURT: Sustained.

10 BY MR. STILLEY:

11 Q. Did I hear you suggest that college is sometimes  
12 stressful enough to cause missed periods?

13 A. Yes, sir.

14 Q. Once again, that would be stress, right?

15 A. Well, I guess so.

16 Q. So, so far I've heard you say that stress is a possible  
17 cause of missed periods. Can you think of anything else?

18 A. No, sir.

19 Q. Now, you testified that you had a quick back door  
20 approach so that you could get a quick appointment for the  
21 girls at the doctor, correct?

22 A. Did I say a quick appointment? I said so we didn't  
23 have to sit with a new student in the front office all  
24 morning.

25 Q. So you wouldn't have to sit and wait?

1 A. Yes.

2 Q. Did you not have that kind of arrangement with the  
3 dentist?

4 A. No, we did not.

5 Q. Did you not have any kind of arrangement with a dentist  
6 for emergency dental care?

7 A. No, we did not.

8 Q. You operate -- you tell the parents that you've  
9 operated for 25 years, correct?

10 MR. BRIGGS: Your Honor, objection. We've already  
11 talked about this. You've already ruled with respect to this  
12 issue.

13 MR. STILLEY: Your Honor, she testified about this.  
14 They brought this up. And what I'm saying here --

15 THE COURT: I don't know how far you are going  
16 beyond this. I don't know where you're going.

17 MR. STILLEY: The excuse for not getting  
18 Ms. Teasley her --

19 MR. BRIGGS: Your Honor.

20 THE COURT: Then get to that then. Get to that.

21 MR. STILLEY: That's where I'm going.

22 THE COURT: Well, get there.

23 MR. STILLEY: Okay.

24 BY MR. STILLEY:

25 Q. During your experience you've had many occasions where

1 there was emergency dental care needed, correct?

2 A. I imagine there's been some, yes, sir.

3 Q. And you had some kind of provision for that, correct?

4 A. We'd call the doctor, the dentist and get an  
5 appointment as fast as we could.

6 Q. And sometimes you needed at least within a week,  
7 correct?

8 A. I don't remember.

9 Q. Do you not ever remember a time that you needed  
10 emergency dental work done within a week?

11 A. No, sir, I don't.

12 Q. Not one time?

13 A. No, sir.

14 Q. Now, you testified a little bit about the safety pin  
15 incident?

16 A. Yes, sir.

17 Q. Was there a particular reason why that Jamie did not  
18 receive her hearing aids?

19 MR. BRIGGS: Objection, Your Honor, that wasn't  
20 raised on cross.

21 MR. STILLEY: Well, she asked about the --

22 THE COURT: Well, briefly. It wasn't raised, but  
23 I'll give you a little leeway. Go ahead with it.

24 A. I don't know why Jamie did not get her hearing aids. I  
25 heard that she could not hear and she needed hearing aids and



1 that they asked her parents to send them, but they did not  
2 get them.

3 Q. And you knew that almost from the time Jamie arrived,  
4 correct?

5 A. Yes, sir.

6 Q. And do you recall when she finally got the hearing  
7 aids?

8 A. No, sir. I remember Ms. O'Brient telling me she took  
9 her to the doctor to get the hearing aids.

10 Q. And that was many months later, after Jamie arrived?

11 A. I don't remember how many months later.

12 Q. Was there a particular -- scratch that. With respect  
13 to the constipation, you said you would give things like  
14 prune juice and fiber and things like that?

15 A. Prunes, yes, sir. Fiber, yes, sir.

16 Q. If that didn't work, did you have a policy to get  
17 stronger medicine?

18 A. Yes, sir, we had laxatives.

19 Q. Do you recall if Jamie Woods -- Jamie, it was Woods at  
20 that time -- was given any stronger medication for her  
21 constipation?

22 A. No, sir, I don't recall.

23 Q. Would there be any particular reason that she would be  
24 denied that medicine?

25 A. No, sir.

1 MR. STILLEY: Pass the witness.

2 MR. BRIGGS: Nothing further, Your Honor.

3 THE COURT: Very well. Thank you, Ms. Wills. You  
4 may step down. Call your next witness.

5 MR. STILLEY: Your Honor, could I have about five  
6 minutes with my clients?

7 THE COURT: Ladies and gentlemen of the jury, we'll  
8 take our morning recess at this time. Recall the admonition.  
9 Be prepared to return to your jury rooms at 10:30. We're  
10 also going to break by 12:15 this morning for our luncheon  
11 recess because there is another matter that needs to be  
12 handled here in this courtroom. So we'll go to lunch at  
13 12:15. Come back at 10:30. Recall the admonition.

14 (Court in recess from 10:11 a.m. until 10:30 a.m.)

15 (The following proceedings were held outside the  
16 hearing of the jury:)

17 THE COURT: Good morning again. Mr. Stilley, is it  
18 correct what you advised the clerk, that you're resting at  
19 this time?

20 MR. STILLEY: That is correct, Your Honor.

21 THE COURT: Very well. And I see I then have the  
22 defendants' motion for judgment as a matter of law.

23 MR. SCHWARTZ: Yes, sir.

24 THE COURT: Anything further besides this written  
25 motion?

1 MR. SCHWARTZ: Your Honor, I want to add to the  
2 motion that I left out at 12:30 last night that in addition  
3 to what I've said in here, that we think we should have a  
4 judgment as a matter of law based on punitive damages.  
5 There's been no evidence of anything that would make a  
6 submissible case for punitive damages, so in addition to what  
7 I've said in the motion, we don't believe that there ought to  
8 be -- that that ought to go forward. The negligence case,  
9 Your Honor, there's been no -- first of all, there's been no  
10 evidence about anything having to do with Sam Gerhardt or Bob  
11 Wills or that these plaintiffs made any complaints to them at  
12 all. So there's no evidence as to those two defendants at  
13 all. They were not involved in dealing with the girls on a  
14 regular basis.

15 The claims about missed periods, there's no evidence  
16 that the girls needed medical help as a result of missing  
17 their period. There's no evidence they suffered any damages  
18 as a result of it. They all said their periods came back.

19 With respect to the constipation, the undisputed  
20 evidence from the plaintiffs was they were given prune juice  
21 and other things for their constipation. There's really no  
22 evidence of a lack of medical care for the negligence. And  
23 so the negligence claim ought to be dismissed.

24 The claim of Jamie Kaufmann for battery regarding  
25 the poking incident, as a matter of fact there is no

1 offensive contact that could go to the jury. And so based on  
2 that we believe the case ought to be dismissed.

3 The last thing on the paddling, the undisputed  
4 evidence is that the parents knew about the paddling, brought  
5 their daughter back to the school. And the jury instruction  
6 says that if they consented, if the parents consented by  
7 words or actions, that that is a complete defense to the  
8 paddling. And so that's a basis for a dismissal as well.

9 THE COURT: Right, that's denied. Other than this  
10 punitive damages situation, you got anything to say about  
11 that, Mr. Stilley?

12 MR. STILLEY: Your Honor.

13 THE COURT: I do not -- your case, you want to ask a  
14 question about net worth and this and that. I didn't allow  
15 it because I don't see punitive damages.

16 MR. STILLEY: I took that to be the case, but I want  
17 to make sure I didn't get in trouble for not asking. If we  
18 can take that up after the defendants' case, I would prefer  
19 it.

20 THE COURT: Okay. I'm going to deny this motion for  
21 judgment as a matter of law at this time. We'll go on with  
22 the defendants' case, and, you know, I'm looking at granting  
23 their motion as to punitive damages, but I'll take that under  
24 advisement until the conclusion of defendants' case.

25 MR. STILLEY: Thank you, Judge.

1 THE COURT: Okay. Very good. Let's go. Bring the  
2 jury on.

3 (The following proceedings continued within the  
4 hearing of the jury:)

5 THE COURT: Very well. Are the defendants ready?

6 MR. SCHWARTZ: Yes, Your Honor. At this time we  
7 would like to offer into evidence Defendants' Exhibit E and  
8 P. E is the letter written by Tracey Ozuna to Debbie  
9 Gerhardt, which was testified about. P is the letter written  
10 by Jamie Kaufmann Woods to Mrs. Gerhardt, which she testified  
11 about. And we'd also like to offer into evidence Exhibit JJ  
12 and KK. JJ is the two-page visit report from August 2001  
13 that Mrs. Lueken testified about. And KK is the one-page  
14 form filled out by Erika Teasley when she went to the  
15 dentist, which she testified about.

16 MR. STILLEY: What was the last one there?

17 MR. SCHWARTZ: KK.

18 MR. STILLEY: What is it?

19 MR. SCHWARTZ: That's the one-page form filled out  
20 by Erika Teasley. It was already showed to the jury.

21 MR. STILLEY: No objection to any of those.

22 THE COURT: Very well. They will be received. Call  
23 your first witness.

24 MR. BRIGGS: May it please The Court, defendants  
25 call Deborah Gerhardt.

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DEBORAH GERHARDT,  
  
Having been first duly sworn, was examined and testified as follows:  
  
DIRECT EXAMINATION  
  
BY MR. BRIGGS:  
  
Q. Good morning, Mrs. Gerhardt. Would you please state your full name for the record.  
  
A. Deborah Gerhardt.  
  
Q. And you're the daughter of Bob and Betty Wills; is that right?  
  
A. Yes, that's correct.  
  
Q. And you're also married to the Defendant Sam Gerhardt; is that correct?  
  
A. Yes, sir.  
  
Q. Now, were you and your husband, did you have occasion to join the ministry at Mountain Park?  
  
A. Yes, sir, in the spring of 1993.  
  
Q. Okay. I'll tell you what, why don't you move the microphone stand just a little closer to you so we can all hear you. Thanks. Mrs. Gerhardt, what were your duties when you first joined the ministry back in 1993?  
  
A. I worked in the school with the girls, and in the dorms with the girls, supervisor in the school and the dorms.  
  
Q. When your mother, Mrs. Wills, was on the stand, we heard testimony from her that part of the mission, the

1 ministry was to put structure and work and faith and also  
2 future into the students' lives. Is that right?

3 A. Yes, sir, we strived to make opportunities for it to  
4 become a real well-rounded individual and hopefully accept  
5 the Lord into their lives and make some spiritual changes in  
6 their lives.

7 Q. Now, Mrs. Gerhardt, we heard from Mrs. Wills that there  
8 was a discipline practice and policy in place at Mountain  
9 Park; is that right?

10 A. Yes, sir.

11 Q. Now, working at Mountain Park, did you have authority  
12 to administer discipline and correction?

13 A. Very limited.

14 Q. Okay. Back, say, around 1996, what sort of discipline  
15 could you administer?

16 A. I could have a student write lines or maybe erase a  
17 PACE. I'm sorry, I have to stop and think. They might miss  
18 their sweets.

19 Q. Could you assign them additional chores or job duties?

20 A. Yes, sir.

21 Q. Now, going back just a minute, you said erase a PACE.  
22 Can you just describe briefly for the judge and jury what  
23 you're referring to?

24 A. Well, the students had a workbook that they did all  
25 their school work in. And it was sort of a trust. They had

1 to score their own work. And if they were cheating when they  
2 were doing that and we caught them cheating, we would make  
3 them erase that work and then go back and do it again and try  
4 to complete that work without cheating.

5 Q. Mrs. Gerhardt, did you ever have authority to paddle a  
6 student?

7 A. No, sir.

8 Q. Could you authorize that another staff member paddle a  
9 student?

10 A. No, sir, I could not.

11 Q. Now, we heard from your mother, Mrs. Wills, that  
12 there was a time when she and her husband started spending  
13 time down in Florida, and that you and your husband, Brother  
14 Gerhardt, were managing the day-to-day business at the  
15 school; is that right?

16 A. Yes, sir.

17 Q. Now, at that period in time could you authorize that a  
18 student be paddled?

19 A. No, sir, not without -- I could not authorize that.  
20 She was the only one that could authorize it.

21 Q. So even when she was away and down in Florida, she  
22 still had to authorize a paddling?

23 A. Yes, sir, she authorized it.

24 Q. Do you remember Tracey Ozuna as a student?

25 A. Yes, sir, I do.



1 Q. Did you ever authorize that she be paddled?

2 A. No, sir.

3 Q. Did you ever tell Laura Mathews to paddle her?

4 A. No, sir, I did not.

5 Q. And why is that?

6 A. I didn't have that authority, and I never recall Tracey  
7 doing anything to -- Tracey was a very well-behaved student.

8 Q. Now, was it your mother's policy that if a student was  
9 paddled that a record was made?

10 A. Yes, sir.

11 Q. And did you have occasion to go through the student  
12 files and try to look for a record of this?

13 A. I did, and there was no record.

14 Q. Now, we've heard from Ms. Ozuna that she was enrolled  
15 twice at Mountain Park, correct?

16 A. Yes, sir.

17 Q. And you were on staff on both times?

18 A. Yes, sir, I was.

19 Q. Now, just like your mother, did you have occasion to  
20 develop lasting relationships with some of the students even  
21 after they left the school?

22 A. Yes, sir.

23 Q. Was it uncommon for you to receive correspondence from  
24 students who used to be at the school?

25 A. No, sir, I quite often would receive letters and phone

1 calls.

2 Q. And, indeed, I think we've already heard that after  
3 Ms. Ozuna left Mountain Park the second time, did she send  
4 you a letter?

5 A. Yes, sir, she did.

6 Q. And, Mrs. Gerhardt, I'll show you on your television  
7 screen, you can see there's a letter that's addressed, is  
8 that addressed to you?

9 A. Yes, sir.

10 Q. Okay. And the date on it is February 14th, 1998,  
11 correct?

12 A. Correct.

13 Q. And if we turn to the last page, who signed the letter?

14 A. Tracey Brazil.

15 Q. And Brazil, is that your understanding that that's the  
16 maiden name for Tracey Ozuna?

17 A. Yes, sir.

18 Q. And did you, indeed, receive this letter from  
19 Ms. Ozuna?

20 A. Yes, sir, I did.

21 Q. Did you have occasion to write back to her with respect  
22 to this letter?

23 A. I did not write her back. We talked on the telephone  
24 and talked about some of the same things in this letter, so I  
25 did not write a letter to her.

1 Q. Your mother already testified that some students were  
2 prescribed medication while they were at Mountain Park; is  
3 that right?

4 A. Yes, sir.

5 Q. How was the prescribed medication kept at Mountain  
6 Park?

7 A. We had a little small room that we called the medicine  
8 closet, and it was locked at all times. And if a person, a  
9 student had prescription medicine, they had a little basket  
10 that we kept their prescriptions in.

11 Q. And the basket had their name on it?

12 A. The basket would have like S for anyone whose last name  
13 started with S, and their prescriptions would go in that box.

14 Q. And how was it that the students got that medication?

15 A. We would have medicine call several times a day, and  
16 when it got close to medicine call, another student would run  
17 through the dorm and tell everybody we're fixin' to have  
18 medicine call. They would all line up in the hallway. A  
19 staff member would be there. She would unlock the door, get  
20 out our little medicine log book. The students would line up  
21 and come one at a time to that staff member and tell them  
22 what was wrong with them, what they felt like they might  
23 need. And then that staff member would give them -- if they  
24 had a prescription, we would give them their prescription  
25 medicine. If they had a cold or headache, we would give

1       whatever medicine they would need for that particular  
2       ailment.

3       Q.       So, for example, did you have something available if  
4       the student just complained of headache?

5       A.       Yes, sir, we did.

6       Q.       What would you give that student typically?

7       A.       Usually Tylenol for a headache.

8       Q.       And just to make sure that I understand this, how  
9       exactly would the students know that it was time for medicine  
10      call?

11      A.       Whichever staff member was doing medicine call on that  
12      day would tell one of the students that was hanging around  
13      there with her that, hey, why don't you go announce medicine  
14      call, and they would run through the dorm hollering,  
15      "Medicine call, medicine call." And we'd make sure that we'd  
16      tell them, you know, run to the dining hall, go everywhere,  
17      let them know it's medicine call. And that's how they found  
18      out.

19      Q.       Now, we've heard that students were on orientation and  
20      they had to be with their guide. If a student on orientation  
21      had a health complaint, did their guides have to take them to  
22      medicine call?

23      A.       Yes, sir.

24      Q.       And if you found out that an orientation guide did not  
25      permit a student to go to medicine call if they requested,

1 would that orientation guide be corrected?

2 A. Yes, sir.

3 Q. How many times a day was medicine call?

4 A. Three, maybe four. It varied. Three was the standard.  
5 Four is if -- if we had someone that had a prescription that  
6 was supposed to be given four times a day, we would make sure  
7 that someone was there to give it on that fourth time.

8 Q. Now, it sounds like you were pretty familiar with the  
9 medication log and how medication was addressed?

10 A. Yes.

11 Q. Indeed, were you intimately familiar with that?

12 A. Yes, sir, I was. I routinely had meetings with the  
13 staff ladies and we would go over the medicine log books and  
14 make sure that everything was being entered correctly, and we  
15 talked about the importance of it.

16 Q. So was the medication log, was that something that was  
17 kept on a daily basis at Mountain Park?

18 A. Every day.

19 Q. And it was kept in the regular course of what you did?

20 A. Yes, sir.

21 Q. Was this an important thing to keep and maintain  
22 accurately?

23 A. Very important.

24 Q. And did you tell the staff who were doing medicine call  
25 that?

1 A. Yes, sir, we did, stressed how important it was.

2 MR. BRIGGS: May I approach, Your Honor?

3 THE COURT: Sure.

4 Q. Mrs. Gerhardt, I'd like to have you take a look at  
5 what's been marked as Defendants' Exhibit D there in front of  
6 you. Mrs. Gerhardt, have you seen that document before?

7 A. Yes, sir, I have.

8 Q. And you're familiar with that document?

9 A. Yes, sir, I am.

10 Q. Okay. Is this a document that was created and kept in  
11 the ordinary course at Mountain Park?

12 A. Yes, sir, it is. It's a medicine log for Tracey  
13 Brazil.

14 Q. Very good. And did you have occasion to pull -- well,  
15 strike that. Are these medicine logs kept in the students'  
16 files at Mountain Park?

17 A. Once they have withdrawn from enrollment, the medicine  
18 log is pulled and placed in their file.

19 Q. And did you have occasion to pull Ms. Brazil's medicine  
20 log out of her file?

21 A. Did I have occasion?

22 Q. Yes.

23 A. Yes, sir, I did.

24 MR. BRIGGS: Your Honor, I'd like to show Exhibit D.

25 MR. STILLEY: Your Honor, that's not been admitted

1 yet, and I would object to its admission until we have  
2 testimony that this is true, correct, and complete.

3 MR. BRIGGS: I'll accommodate, Your Honor.

4 THE COURT: What?

5 MR. BRIGGS: I can accommodate Mr. Stilley.

6 THE COURT: Whatever, fine.

7 BY MR. BRIGGS:

8 Q. Now, Mrs. Gerhardt, to the best of your knowledge this  
9 is a complete document; is that right?

10 A. Yes, sir, it is.

11 Q. And this is the only thing that you found in her file?

12 A. Correct.

13 Q. And as you said, the medication logs are kept in the  
14 student files after the student withdraws, correct?

15 A. After they withdraw, we pull the medical logs on that  
16 student and place it in their file.

17 MR. BRIGGS: At this point, Your Honor, I ask it be  
18 admitted.

19 MR. STILLEY: Your Honor, I'm going to object. The  
20 question was to the best of your personal knowledge. And if  
21 that's not good enough, I would object on the grounds of the  
22 best evidence. And I'd like to see the original document if  
23 that's possible.

24 MR. BRIGGS: Your Honor --

25 THE COURT: I'm not going to say talk to it, but I'm

1 going to say hold on. Business record?

2 MR. BRIGGS: Yes, Your Honor, I went through the  
3 authentication process, that this was kept in the ordinary  
4 course.

5 THE COURT: Okay.

6 MR. STILLEY: Your Honor, what I'd really like to  
7 see is the original document, the original signed ink  
8 document if it's available. But if it's not available.

9 THE COURT: I have no idea about that.

10 MR. BRIGGS: The best evidence rule, Your Honor. I  
11 mean this is a photocopy of it.

12 MR. STILLEY: Well, could we have an inquiry of the  
13 witness if the original is available.

14 THE COURT: Why don't you inquire about the  
15 original.

16 BY MR. BRIGGS:

17 Q. Mrs. Gerhardt, did you bring the original of Exhibit D  
18 with you to court today?

19 A. I did not.

20 THE COURT: I'm going to allow this in as a business  
21 record.

22 Q. Mrs. Gerhardt, I think you testified that there were  
23 over-the-counter preparations available to distribute to the  
24 student if they had complaints; is that right?

25 A. Yes.



1 Q. Now, taking a look on Exhibit D, the first entry,  
2 Mrs. Gerhardt, can you tell what that entry is?

3 A. Tavist-D.

4 Q. Okay. And what's your understanding what Tavist-D is?

5 A. A cold medication.

6 Q. Is that an over-the-counter preparation?

7 A. Yes, sir.

8 Q. Is that something that you procured for Mountain Park  
9 students?

10 A. Yes, sir.

11 Q. And is the date on this March 23rd?

12 A. Yes, sir.

13 Q. Now, looking down, are there some additional entries  
14 for Tavist-D?

15 A. Yes, sir, on the 24th.

16 Q. And thereafter are there some other entries on here?

17 A. Yes, sir, Sudafed.

18 Q. And what were the dates -- or strike that. Were the  
19 dates that the Sudafed was given between March 24th and  
20 March 28th?

21 A. That's correct.

22 Q. Mrs. Gerhardt, if medication was written down in the  
23 medication log, did the staff member give that medication to  
24 the student?

25 A. Yes, sir.

1 Q. Now, I'd like to draw your attention to Defendants'  
2 Exhibit I, the next document there. Now, once again is this  
3 a medication log for Jessica Brazil?

4 A. Yes, sir, it is.

5 Q. And this is kept in the ordinary course by Mountain  
6 Park, correct?

7 A. Yes, sir.

8 Q. Is this a true and accurate copy of what you pulled  
9 from her file?

10 A. It is.

11 Q. And you're familiar with this document?

12 A. Yes, sir, I am.

13 MR. BRIGGS: Your Honor, I ask that Exhibit I be  
14 admitted.

15 MR. STILLEY: Your Honor, foundation. I didn't hear  
16 any testimony that it was a complete document, and I'll make  
17 the best evidence objection requesting to be able to see the  
18 original.

19 BY MR. BRIGGS:

20 Q. Mrs. Gerhardt, did you bring the original of Exhibit I  
21 to court today?

22 A. I did not.

23 Q. But this is a true and accurate copy of it?

24 A. Yes, it is.

25 THE COURT: What's your objection?

1 MR. STILLEY: The objection is there's no testimony  
2 that it's complete.

3 Q. Mrs. Gerhardt, was this -- you pulled this out of  
4 Jessica Brazil's files, correct?

5 A. Yes, sir.

6 Q. Was this the entire medication log that was in her  
7 file?

8 A. Yes, sir, it is.

9 Q. And as you've already testified and to make it clear  
10 for the jury, that it was important that all the medication  
11 logs once the student was withdrawn was kept in that  
12 student's file, correct?

13 A. Yes, sir, every log.

14 MR. BRIGGS: Your Honor, I ask --

15 THE COURT: Fine. It will be received.

16 BY MR. BRIGGS:

17 Q. Now, we heard previously from Ms. Deboi that she  
18 believed she was enrolled at Mountain Park sometime around  
19 April 7th or April 8th, 1997. Do you recall that?

20 A. Yes.

21 Q. Taking a look at Exhibit I, what's the first entry on  
22 that medication log?

23 A. April the 8th.

24 Q. Would this have been around the time that she was  
25 enrolled?

1 A. Yes, sir.

2 Q. And what's the medication given?

3 A. Sudafed.

4 Q. And if we continue to look down, was there -- did there  
5 continue to be entries for Sudafed?

6 A. Yes, sir.

7 Q. Okay. And what are the dates of the dispensations?

8 A. From April the 8th through May the 2nd she received  
9 Sudafed. And there's a notation that her mother gave us the  
10 Sudafed at the top. The Sudafed came from her mother. Then  
11 on the May the 2nd she received Advil for her earache.

12 Q. Now, if we look on the right-hand column, if you look  
13 down, the second entry from the top, what's the medication  
14 that's listed there?

15 A. Suphedrin.

16 Q. And what is that?

17 A. A form of Sudafed.

18 Q. Is it like a generic?

19 A. Yes, sir.

20 Q. And did you have occasion to procure that drug for  
21 students at Mountain Park?

22 A. Yes.

23 Q. When was that given to Ms. Ozuna?

24 A. May the 5th, 8 p.m.

25 Q. And with respect to further down, we see an entry for

1 Poly-Histine. Do you see that about midway down the page?

2 A. I do.

3 Q. Now, with respect to this Poly-Histine, do you know  
4 what that is?

5 A. From the word histine, I'm supposing it's for sinuses,  
6 but I'm not for sure.

7 Q. Do you know if Ms. Ozuna or, excuse me, Ms. Deboi had  
8 occasion to go to the doctor?

9 A. I can't remember for sure.

10 Q. Okay, very well. Next we'll have you take a look at  
11 Exhibit O. Now, Mrs. Gerhardt, are you familiar with this  
12 document?

13 A. Yes, sir, I am.

14 Q. What is this document?

15 A. This is a medicine log for Jamie Kaufmann.

16 Q. And once again, was this created and kept in the  
17 ordinary course at Mountain Park?

18 A. Yes, sir, every day.

19 Q. And did you pull this from her file?

20 A. Yes, sir.

21 Q. Based on your previous testimony, is this the complete  
22 medication log from her file?

23 A. Yes, sir, it is.

24 Q. And to the best of your knowledge this is accurate,  
25 correct?

1 A. Correct.

2 Q. And is this a true and accurate copy of what you pulled  
3 from her file?

4 A. Yes, sir, it is.

5 Q. And did you happen to bring the original?

6 A. I did not.

7 MR. BRIGGS: Your Honor, I ask that it be received.

8 MR. STILLEY: We'd reserve our best evidence  
9 objection.

10 THE COURT: Okay. It will be received.

11 MR. BRIGGS: Thank you, Judge.

12 BY MR. BRIGGS:

13 Q. And taking a look at Exhibit O. And it looks like the  
14 form of the medication log, did this change periodically over  
15 time?

16 A. It did.

17 Q. Now, I want to direct your attention to right around  
18 there. Do you see where I made that mark?

19 A. Yes, sir, I do.

20 Q. And on January 22nd, 2000, there is an entry that's  
21 made there, correct?

22 A. Yes, sir, there is.

23 Q. Okay. Can you tell by looking at the initials who made  
24 that entry?

25 A. I did.

1 Q. And what's the drug that's referenced as being given to  
2 the student?

3 A. Ms-Aid, which is a generic form of Midol.

4 Q. And did you have occasion to procure Ms-Aid for  
5 students at Mountain Park?

6 A. Yes, sir, I did.

7 Q. And once again, if you put this in the medication log,  
8 it would have been given to Jamie Woods; is that correct?

9 A. Yes, sir. I would not write down anything that I did  
10 not give to the student.

11 Q. Now, if we look at the entry just below that, what's  
12 that entry?

13 A. January the 24th for Ms-Aid.

14 Q. And if we look at -- what's the next entry after that?

15 A. March the 29th for Midol.

16 Q. And did she continue to have Midol three more times  
17 after that?

18 A. On the 29th, the 30th, and the 31st.

19 Q. And why would you dispense Ms-Aid or Midol to a  
20 student?

21 A. If they told me they were having cramps.

22 Q. Now, then we also see an entry on April 1st, do we not?

23 A. Yes, sir.

24 Q. And what's that for?

25 A. Ms-Aid.

1 Q. Now, if we turn to page 2 of Exhibit O, I'll direct  
2 your attention to an entry made on February 19th, 2001. You  
3 see that?

4 A. Yes, sir.

5 Q. And what's that entry for?

6 A. For Tylenol for cramps.

7 Q. And do you also see another entry for Tylenol a couple  
8 days later?

9 A. On the 20th.

10 Q. And what was that for?

11 A. Cramps.

12 Q. Ma'am, I'd like to direct your attention to the next  
13 exhibit. And this is a multi-page exhibit, is it not?

14 A. Yes, sir, it is.

15 THE COURT: What's the -- identify the exhibit, the  
16 letter.

17 MR. BRIGGS: I'm sorry, Exhibit V, Your Honor.

18 THE COURT: V as in Victor?

19 MR. BRIGGS: V as in Victor. Thank you.

20 BY MR. BRIGGS:

21 Q. If you can, I'd like to direct your attention to page 5  
22 of that exhibit. First off, Mrs. Gerhardt, you're familiar  
23 with Exhibit V, are you not?

24 A. I'm sorry, I couldn't hear.

25 Q. You're familiar with Exhibit V, are you not?



1 A. Yes, sir.

2 Q. This is prepared in the ordinary course of Mountain  
3 Park?

4 A. Yes, sir.

5 Q. And this is a true and accurate copy of what you pulled  
6 from Shari Lueken's file; is that correct?

7 A. Yes, it is.

8 Q. And based on your previous testimony, all of Shari  
9 Lueken's medical log data would have been put into her file,  
10 correct?

11 A. Yes.

12 Q. Did you bring the original with you today?

13 A. I did not.

14 Q. But is this a true and accurate copy of the original?

15 A. Yes, sir, it is.

16 MR. BRIGGS: Your Honor, I ask Exhibit V be  
17 admitted.

18 MR. STILLEY: I reserve the same objection. Best  
19 evidence.

20 THE COURT: Very well. It will be received.

21 BY MR. BRIGGS:

22 Q. Mrs. Gerhardt, turn to page 5 of Exhibit V. Is this  
23 the medication log that you pulled or part of the medication  
24 log that you pulled from Ms. Lueken's file?

25 A. Yes, sir.

1 Q. If you could, Mrs. Gerhardt, can you count and tell the  
2 jury and judge how many pages there are to Exhibit V.

3 A. Eight.

4 Q. Very good. Finally, ma'am, I'd like to have you look  
5 at the last exhibit there I put in front of you, please,  
6 Exhibit BB. Mrs. Gerhardt, have you seen this document  
7 before?

8 A. Yes, sir, I have.

9 Q. Are you familiar with this document?

10 A. Yes, sir.

11 Q. Okay. What is this document?

12 A. This is a medication log for Erika Teasley.

13 Q. And was this prepared in the ordinary course of  
14 Mountain Park?

15 A. Yes, sir.

16 Q. And did you pull this document from Erika Teasley's  
17 file?

18 A. Yes, sir, I did.

19 Q. And once again, all of her medication log would have  
20 been put into her file, correct?

21 A. That's correct.

22 Q. Did you bring the original with you today?

23 A. I did not.

24 Q. Okay. Is this a true and accurate copy of the original  
25 Exhibit BB?

1 A. Yes, sir, it is.

2 MR. BRIGGS: I'd ask that it be admitted, Your  
3 Honor.

4 MR. STILLEY: I didn't hear the testimony that it  
5 was complete.

6 MR. BRIGGS: I went through it, Your Honor.

7 THE COURT: Why don't you just ask her.

8 MR. BRIGGS: I'm sorry?

9 THE COURT: Ask the witness.

10 MR. BRIGGS: Very good.

11 BY MR. BRIGGS:

12 Q. Mrs. Gerhardt, once again, it was the policy of  
13 Mountain Park that once a student withdrew or left Mountain  
14 Park, their entire medication log, the complete medication  
15 log went into the student's file, correct?

16 A. That's correct.

17 Q. And Exhibit BB is the entire medication log from Erika  
18 Teasley's file, correct?

19 A. Correct.

20 MR. BRIGGS: Your Honor, I'd ask it be admitted.

21 MR. STILLEY: We just reserve the best evidence.

22 THE COURT: Very well. It will be received.

23 BY MR. BRIGGS:

24 Q. Now, taking a look at Exhibit BB. Mrs. Gerhardt, if  
25 you can take a look at illness or injury, when is the first

1 time that you see tooth pain on there?

2 A. March the 15th.

3 Q. Okay. And was that in 2003?

4 A. Yes, sir.

5 Q. Okay. Was Ms. Teasley only enrolled at Mountain Park  
6 in 2003?

7 A. That's correct.

8 Q. And thereafter do you see entries in there for her  
9 having a cold?

10 A. Yes, sir.

11 Q. And after that a headache?

12 A. Yes, sir, I do.

13 Q. And actually there's repeated entries for headache,  
14 correct?

15 A. Several for headaches.

16 Q. And then what's the entry at the bottom?

17 A. April the 11th, Tylenol for a toothache and a headache.

18 Q. And do you know, did Ms. Teasley have occasion to go to  
19 the dentist?

20 A. Yes, sir.

21 Q. Do you know when she went to the dentist?

22 A. I don't remember the exact date.

23 Q. If we could, let's turn to page 2 of Exhibit BB.

24 There's an entry on there on April 22nd. Can you tell the  
25 judge and jury what that entry is?

1 A. Aleve for cramps.

2 Q. Okay. And is there also another entry on the 28th?

3 A. Yes, sir, Aleve for cramps.

4 Q. And are there -- is there another entry on the 29th?

5 A. 3 p.m., Aleve for cramps.

6 Q. Do those check marks signify that it is the same thing  
7 as referenced above?

8 A. Yes.

9 Q. Mrs. Gerhardt, if a student thought that she was  
10 pregnant, what would you do?

11 A. I kept a supply of pregnancy tests, and we would  
12 administer a pregnancy test.

13 Q. And how did you come about to procure those pregnancy  
14 tests?

15 A. I had to make trips to Wal-Mart, and I would have to  
16 buy a lot of feminine hygiene supplies like sanitary napkins.  
17 And I'd go through Wal-Mart with -- it's very embarrassing,  
18 I'd go through Wal-Mart with a cart full of sanitary napkins.  
19 And that little part where you'd sit your children, I would  
20 put the pregnancy tests and any other feminine hygiene items  
21 I needed right there and have to proceed to the checkout.

22 Q. Did you do that very often?

23 A. All the time.

24 Q. Mrs. Gerhardt, we heard from Jamie Woods that she had  
25 swallowed a safety pin shortly after she was enrolled at

1 Mountain Park. Do you recall hearing that testimony?

2 A. I do.

3 Q. Do you recall what day of the week that was?

4 A. A Sunday.

5 Q. And, now, how did you come to find out that she had  
6 indicated she had swallowed a safety pin?

7 A. Oh, one of the students originally told me. And then I  
8 went to where Jamie was, and she told me she swallowed a  
9 safety pin.

10 Q. And what did you do in response to that?

11 A. I asked her a couple of questions about it. First, she  
12 didn't say safety pin, she said pin, I swallowed a pin. I  
13 first thought ink pen, you know, straight pin, I didn't know,  
14 so I asked her some questions about what kind of pin she  
15 swallowed. She told me a safety pin. I asked her where she  
16 got it. And then I called -- sent for my mother.

17 Q. Now, I take it by what you've just testified about that  
18 Ms. Woods could speak to you about that?

19 A. Yes, she did.

20 Q. And with respect to the incident, where did you say she  
21 had gotten the pin from?

22 A. She told me she had gotten it out of one of the  
23 student's clothes.

24 Q. And after the incident, did you ever speak with Jamie  
25 Woods about this incident again?

1 A. Yes, I did. That afternoon after church I spoke to her  
2 again, and she told me that she really didn't swallow a pin.

3 Q. Did she give you any explanation for why?

4 A. No, sir.

5 Q. Was Jamie Woods given any correction or discipline with  
6 respect to the incident?

7 A. No, sir.

8 Q. And did Jamie Woods graduate from Mountain Park?

9 A. Yes, sir, she did.

10 Q. Now, Mrs. Gerhardt, did you ever speak with Jamie Woods  
11 after she left Mountain Park?

12 A. On the telephone.

13 Q. Did she have occasion to call Mountain Park?

14 A. Yes, sir.

15 Q. And you talked to her?

16 A. Yes, sir.

17 Q. And what was that conversation about? What did she  
18 indicate to you?

19 A. We spoke very briefly, but she told me she was doing  
20 well and that she would like to come back to be on staff.

21 Q. Okay. So this is after she graduated and left Mountain  
22 Park, correct?

23 A. Yes, sir.

24 Q. She's indicated to you that she wants to come back as a  
25 staff member?

1 A. Yes, sir.

2 Q. Now, what did you do with respect to her request?

3 A. I didn't do anything with the request. We -- the staff  
4 all, you know, we discussed it. But it wasn't really my  
5 decision at that time. So we just discussed it.

6 Q. Do you know if she was invited to come to work as a  
7 staff member?

8 A. Yes, she was.

9 Q. Now, when a new student is enrolled at Mountain Park,  
10 are they expected to actually participate in all the  
11 activities of the other students immediately?

12 A. Not immediately. We have what we call a little grace  
13 period. And we know that when a student first comes in, the  
14 first couple days that they are -- it's all new to them, so  
15 we don't really push anything at first.

16 Q. However, they still have to be around staff and other  
17 students, don't they?

18 A. Yes, sir, they have to maintain the group activities  
19 and be with us.

20 Q. Mrs. Gerhardt, did Erika Teasley ever complain to you  
21 about having a toothache?

22 A. She did not.

23 Q. Did any of the plaintiffs ever complain to you  
24 personally about missing their period?

25 A. No, sir.



1 Q. Mrs. Gerhardt, in 2003 who was it who typically made  
2 the appointments for students to see the doctor or dentist?

3 A. I usually asked someone to make an appointment for  
4 them, whoever was manning the telephones on that day.

5 Q. Did you have occasion to set up an appointment for  
6 Erika Teasley to see the dentist?

7 A. Yes, I did.

8 Q. And did you do that personally?

9 A. No, I did not.

10 Q. Okay. Can you tell us what happened with respect to  
11 that?

12 A. I had someone call Dr. Price's office and ask for an  
13 appointment. They came back to me and told me that there was  
14 no available appointments for awhile. He was very hard to  
15 get into, a very busy dentist. And so we scheduled an  
16 appointment at a later date. But actually we had another  
17 student who had to cancel their appointment, so she went in  
18 their place at an earlier time.

19 Q. So you actually got her in on an appointment that was  
20 earlier than was originally scheduled?

21 A. Yes.

22 Q. Earlier, Mrs. Gerhardt, I showed you a letter that  
23 Tracey Ozuna had written to you after she left Mountain Park.  
24 Do you recall that?

25 A. Yes, sir.

1 Q. Other than that letter, did you have occasion to speak  
2 with her on the telephone after she left?

3 A. I did.

4 Q. Can you tell us a little about those telephone calls  
5 and what the subject of the communication was?

6 A. All I remember is talking to her once, but we talked  
7 about her new school, all her sisters, her family, their new  
8 place. They had moved to a different state and how she was  
9 enjoying it.

10 Q. Very good.

11 MR. BRIGGS: That's all I have at this time, Your  
12 Honor.

13 THE COURT: Very well.

14 CROSS-EXAMINATION

15 BY MR. STILLEY:

16 Q. You said you joined Mountain Park in 1993, correct?

17 A. Yes, sir.

18 Q. And I didn't catch exactly what your duties were at the  
19 various periods of time. Can you tell us first what your job  
20 title was for the various periods of time there?

21 A. To begin with I was a school supervisor in the learning  
22 center.

23 Q. And how long were you in that position?

24 A. I don't remember the dates.

25 Q. Can you get close?

1 A. Several years.

2 Q. What was your next position?

3 A. I worked in the office. I had a lot -- I worked in the  
4 kitchen some. I worked in the office. I worked in the  
5 computer room, just everywhere.

6 Q. Did your job title ever change --

7 A. From --

8 Q. -- from school supervisor?

9 A. Yes, sir.

10 Q. And what did it change to?

11 A. I have to think about what it was actually called now.  
12 It just slipped my mind, I'm sorry. I know what the position  
13 was, but it slipped my mind. Lay director of women. I can't  
14 remember exactly what the --

15 Q. Can you tell us briefly what your duties were in that  
16 position?

17 A. To oversee the activities of the girls' dorm.

18 Q. And can you tell us approximately when you started and  
19 stopped this position?

20 A. I don't remember the dates I started exactly. About  
21 '99, 2000. I don't remember the dates. I'm a terrible  
22 person with dates. But it stopped when Mountain Park was  
23 closed.

24 Q. What were your duties in that position?

25 A. To oversee the activity of the girls' dorm.

1 Q. Did you ever have another position with respect to  
2 Mountain Park?

3 A. I worked in the computer room. I worked in the  
4 kitchen.

5 Q. Didn't you tell us in your deposition that you were the  
6 treasurer of Mountain Park?

7 A. No, I was not the treasurer. I did take care of the  
8 checkbook, but I wasn't the treasurer. I never had that  
9 title.

10 Q. Was somebody else the treasurer?

11 MR. BRIGGS: Your Honor, I'm going to object at this  
12 point as to relevance.

13 MR. STILLEY: Your Honor, I'm trying to find out  
14 what her duties were. Just very basically.

15 MR. BRIGGS: Your Honor, he already --

16 THE COURT: I'm sustaining the objection.

17 BY MR. STILLEY:

18 Q. Nonetheless, you did keep the books, correct?

19 A. Yes, sir.

20 Q. And I believe you heard testimony that this is a sort  
21 of a ministry type thing, correct?

22 A. It is a ministry, yes, sir.

23 Q. But it does cost some money to provide care for the  
24 students at Mountain Park, correct?

25 A. Yes, sir, it does.

1 Q. And I believe that your husband, Sam Gerhardt, made a  
2 declaration that it would cost \$500 per month.

3 MR. BRIGGS: Your Honor, I'm going to object at this  
4 point. What's the relevance of this going to the negligence  
5 or the battery claims?

6 THE COURT: Mr. Stilley, I'll allow you this. You  
7 want to ask what the tuition was per student per year, do  
8 that, and cut it and move on.

9 MR. STILLEY: I've got that evidence in. I just  
10 want --

11 THE COURT: Fine, then I don't know where you're  
12 going.

13 MR. STILLEY: I want to show what the defendants  
14 said cost per student was.

15 MR. BRIGGS: Your Honor --

16 MR. STILLEY: Maybe this is the wrong witness. Let  
17 me wait until I get to Mr. Gerhardt.

18 THE COURT: Still may be the wrong question.

19 BY MR. STILLEY:

20 Q. Now, were you on salary?

21 A. Yes, sir.

22 Q. And were you just an employee, a salaried employee?

23 A. Yes, sir.

24 Q. Did your duties and responsibilities go beyond that?

25 A. I don't understand that question.

1 Q. Well, there's employment and then there's ownership.  
2 Did you have ownership interest?

3 MR. BRIGGS: Your Honor, at this point I would  
4 object. We need to approach. I don't know what the  
5 relevance --

6 THE COURT: We don't need to approach. Where you  
7 going, Mr. Stilley?

8 MR. STILLEY: I'm just trying to find out what her  
9 interest was. Let's approach if you don't mind. Well, I can  
10 explain where I'm going if you'd like.

11 THE COURT: Tell me.

12 MR. STILLEY: Where I'm going is to show that  
13 Ms. Gerhardt after Mountain Park was closed --

14 MR. BRIGGS: Your Honor, I'm going to object at this  
15 point, you've already excluded the punitive damage count.

16 THE COURT: After it was closed? I'm sustaining the  
17 objection. Move on.

18 MR. STILLEY: Your Honor, can we --

19 THE COURT: No.

20 MR. STILLEY: I want to approach.

21 THE COURT: No.

22 MR. STILLEY: I want to ask the next question, and I  
23 don't want to ask.

24 THE COURT: You never start from the relevant  
25 portion and move out. You're always out there someplace.

1 Start from what's relevant and then maybe somebody could see,  
2 but you want to go to something after the school closed. I'm  
3 sustaining the objection.

4 BY MR. STILLEY:

5 Q. Where have you lived since Mountain Park?

6 MR. BRIGGS: Objection, Your Honor, relevance.

7 MR. STILLEY: Your Honor, I'm just trying to show  
8 that -- well, let me just say this --

9 THE COURT: Since Mountain Park?

10 MR. STILLEY: Yes.

11 THE COURT: Sustained.

12 Q. Now, with respect to this litigation, you had your  
13 deposition taken at a certain point in time; is that correct?  
14 Well, scratch that. Let me withdraw that question. Didn't  
15 you testify on direct that there are certain punishments for  
16 the students?

17 A. There's certain discipline correction.

18 Q. You didn't testify on direct that there's punishments?

19 A. Discipline correction. We did not administer  
20 punishment.

21 Q. There were no punishments?

22 A. There was discipline correction.

23 Q. But you understand the question? What I'm trying to  
24 find out --

25 THE COURT: Let's not argue with the witness.

1 Please.

2 MR. STILLEY: Let me see if she can answer the  
3 question.

4 THE COURT: Well, you asked the question. You  
5 called it punishment, she called it discipline. So what.  
6 Move on.

7 BY MR. STILLEY:

8 Q. And you told us about what punishments were leveled --  
9 excuse me, what disciplines or corrections were available,  
10 correct?

11 A. Yes, sir.

12 Q. I don't think I heard you say anything about cold  
13 showers. That was one of the disciplines or corrections,  
14 correct?

15 A. That was a protection. It was not a discipline or  
16 correction, no, sir. If a student was ever harming  
17 themselves or harming another student, they may be escorted  
18 to a cold shower to calm them down if there was nothing else  
19 that was available.

20 Q. So you're telling us that that's not a correction?

21 A. It was a calming.

22 Q. Okay. I'd like to show you --

23 THE COURT: Hold on a minute. You got to --

24 MR. STILLEY: Page 47.

25 THE COURT: Page 47 of what?



1 MR. STILLEY: Of her deposition of --

2 MR. BRIGGS: Your Honor, she was not deposed in this  
3 case.

4 MR. STILLEY: October 16, 2003.

5 MR. BRIGGS: That's not in this case.

6 MR. STILLEY: Well, it's another case and I can  
7 question her about sworn statements.

8 THE COURT: Why don't you ask her about her  
9 statement before you put her -- are you asking her did she  
10 say something at some other time? Did you ask her that?

11 MR. STILLEY: I will certainly ask that.

12 THE COURT: Why don't you do that.

13 BY MR. STILLEY:

14 Q. Isn't it true that you were involved in other  
15 litigation with respect to Mountain Park?

16 MR. BRIGGS: Your Honor, this is outside the scope.

17 THE COURT: No, no, no.

18 MR. STILLEY: They asked for it.

19 THE COURT: Please.

20 MR. BRIGGS: Your Honor, may we approach?

21 THE COURT: Ask her what she has previously said.

22 Q. Isn't it true that you previously stated under oath:

23 "QUESTION: Is cold shower still a potential  
24 correction?

25 "ANSWER: Yes."

1 A. I don't remember. I really can't remember.

2 Q. Do you think that if you saw those words in writing  
3 that might refresh your recollection?

4 A. If I --

5 MR. BRIGGS: Your Honor, I'm going to object.

6 MR. STILLEY: She said she didn't remember. I can  
7 refresh with anything.

8 THE COURT: See if you can lay a foundation to do  
9 it.

10 MR. STILLEY: Certainly.

11 BY MR. STILLEY:

12 Q. Do you think that you might be able to recall having  
13 said that if you saw the words in print?

14 A. I guess it would depend on what I saw in print.

15 MR. STILLEY: Enough foundation?

16 MR. BRIGGS: I still object at this point. May we  
17 approach with respect to this?

18 THE COURT: Come on down.

19 (The following proceedings were held at the bench  
20 and outside the hearing of the jury:)

21 THE COURT: Listen, you know, basically lay a  
22 foundation for a deposition. Why do I have to be a lawyer  
23 for you? Please. You know, do you recall giving a  
24 deposition, and such and such and such. You always want to  
25 add another litigation. You're always gilding the lily, and

1       that's what creates the problem.

2               Now, you ask her the question. She recall? No, she  
3       don't recall. Then you have to lay a foundation about do you  
4       recall giving a deposition on such and such a date, da, da,  
5       da. Then you got to come up, show them the deposition, and  
6       come up with the deposition. So they say you only got one  
7       page or something.

8               MR. STILLEY: Wait a minute, Judge. I got the  
9       deposition. I'll be glad to take it up there and show it to  
10      her.

11              THE COURT: You got to show it to them first. You  
12      got it?

13              MR. STILLEY: Sure.

14              THE COURT: Bring it on up.

15              MR. STILLEY: Sure. Sorry, Judge, it's in a box  
16      back in my hotel room. I don't have the whole thing.

17              THE COURT: Well, it don't -- we can't use it back  
18      from your hotel room.

19              MR. STILLEY: Now, here's what I'll do then, I will  
20      not refer to the deposition, I'll ask her if she previously  
21      stated under oath --

22              MR. BRIGGS: Your Honor, he already did.

23              MR. STILLEY: I can have this in about 30, 35  
24      minutes.

25              THE COURT: Fine, whatever. I'm going to allow you

1 to ask did she previously state under oath, but you got to  
2 move because you don't have no deposition.

3 MR. STILLEY: I'll be stuck with her answer.

4 THE COURT: That's right.

5 MR. SCHWARTZ: The way he has to say it, did you say  
6 in this deposition these questions and these answers. It's  
7 not appropriate for him to say did you previously state under  
8 oath because it leaves a false impression with the jury that  
9 she said that, and then he never has to come back and prove  
10 it.

11 THE COURT: Fine. You indicate a deposition, did  
12 you previously state in a deposition. And you can say that  
13 the deposition was under oath, but her deposition, I agree.

14 MR. SCHWARTZ: I think he has to say did you give  
15 these answers to these questions. That's the way that it's  
16 required to be done. Because otherwise he could just say did  
17 you say this, did you say that, and she's denying it, and  
18 then he has no --

19 THE COURT: What about that, Mr. Stilley?

20 MR. STILLEY: I'm not going to ask the question --

21 THE COURT: You have that here and you're ready to  
22 do that?

23 MR. STILLEY: I have all this right here. I can  
24 send somebody back and have the other stuff --

25 THE COURT: We're not going to wait forever. We're

1       trying to get this train going here.

2               MR. STILLEY:   Sure.

3               THE COURT:   Fine.   You can ask did she state under  
4       oath in her deposition these answers to these questions and  
5       go with it.

6               MR. SCHWARTZ:   Your Honor, I think she's entitled to  
7       see the deposition to -- if she has to answer the question,  
8       did I say this.   Your Honor, I mean --

9               THE COURT:   Well, if he don't come up with the  
10      deposition, then you get to bust his chops later on.   He said  
11      all this, he never came up with any deposition and so forth  
12      and so on.

13              MR. STILLEY:   If it pleases The Court, that's not --

14              THE COURT:   Make yourself happy.

15              MR. SCHWARTZ:   The damage is done at that point  
16      because we're in a position rehabilitating her about  
17      something in a deposition we don't have and he doesn't have.  
18      The requirement is that you have to -- that he has to say did  
19      you give these answers to these questions, and she says, I  
20      don't remember, then he has to show her the deposition.

21              THE COURT:   That's generally the procedure.   I'm  
22      trying to give you some leeway in terms of going back to the  
23      hotel.   But if you want to ask these questions about a  
24      deposition, again, it's like you have no plan, you know.   You  
25      start out with these darn medicine charts and asking these

1 witnesses these questions. If you had a plan about that, you  
2 would have called Debbie Gerhardt as your first witness to  
3 lay the foundation, get those things in, then ask. It's like  
4 it's crazy, it's insane.

5 MR. STILLEY: Well, Judge --

6 THE COURT: It's lack of -- if you have a plan to do  
7 these kinds of things, you have to think this through. I'm  
8 going to sustain the objection because you don't have -- you  
9 know, you don't give them any chance to rehabilitate the  
10 witness or to confirm that this was a deposition. It's not  
11 here. You don't have it. So I'm sustaining that. Move on  
12 from that.

13 MR. STILLEY: Hey, Judge, let me ask you this. What  
14 he was asking is that I only ask if she had stated a certain  
15 thing previously and then be stuck with her answer.

16 THE COURT: Well, he has rethought this and so have  
17 I. Because suppose you never come up with the deposition.  
18 Then -- and so the proper way to do it, Mr. Schwartz is  
19 correct, that then you should be able to show her the  
20 deposition and have her confirm or not confirm, and then they  
21 have the deposition. So since you don't have it here and we  
22 can't do it, I'm sustaining the objection. So no more  
23 questions about that deposition. What else?

24 MR. SCHWARTZ: I'd like -- since we're up here, I'd  
25 like to move for a mistrial because you excluded issues about

1 other lawsuits and he intentionally brought up this issue of  
2 other lawsuits after you ruled that other lawsuits would not  
3 be in the case. He has intentionally brought it up at every  
4 opportunity he can get.

5 MR. STILLEY: Your Honor, they complained that I had  
6 not said anything about it. That's the only reason anything  
7 was said about it.

8 THE COURT: They didn't say anything about it.

9 MR. SCHWARTZ: That's not case.

10 MR. STILLEY: Yes, they did.

11 MR. SCHWARTZ: The objection was that he hadn't  
12 asked her about a particular deposition. That was the  
13 objection. He says well -- then he starts saying, well,  
14 weren't you in another lawsuit. That violates The Court's  
15 clear ruling and he ought to be sanctioned. He ought not be  
16 allowed to practice in this court and then we ought to have a  
17 mistrial.

18 THE COURT: Yeah, you went overboard with this whole  
19 thing, Mr. Stilley.

20 MR. STILLEY: Judge --

21 THE COURT: But there was an objection. I'll give  
22 you some leeway. I don't know that it does any good to tell  
23 the jury to disregard about this whole deposition situation.  
24 And it's in a deposition. You just have to avoid these  
25 things that are out. You could have clearly explained what

1 you were talking about without bringing up another lawsuit.  
2 But you look at every opportunity, your own landing strip,  
3 your own -- I mean, come on, you just go overboard every  
4 time. Didn't you see what the Court of Appeals said about  
5 that? Haven't you realized how much stress your clients are  
6 under, crying and going on? And the money. I've tried to  
7 explain this to you. You don't seem to understand. You have  
8 to try to do what you can do with what you have, not going  
9 overboard. So the deposition is out. You don't have  
10 anything here, forget it.

11 (The following proceedings continued within the  
12 hearing of the jury:)

13 BY MR. STILLEY:

14 Q. Did you -- you testified a little on direct about  
15 school work, correct?

16 A. Yes.

17 Q. And you said that the students could be required to  
18 erase the PACE if they cheated?

19 A. Correct.

20 Q. Isn't it true that they can also be required to erase  
21 the PACE if they failed it?

22 A. There was a point in time where they erased a PACE and  
23 then they would rework the PACE if they failed it. You had  
24 to redo the PACE. If you failed a PACE, you had to redo it.  
25 And sometimes they would erase that one and redo that one



1       instead of having to buy a new PACE.

2       Q.       And that was true for certain periods of time relevant  
3       to this lawsuit too, correct?

4       A.       I don't recall what the dates were on that.

5       Q.       And you said Tracey Ozuna was well behaved; is that  
6       correct?

7       A.       Yes.

8       Q.       Now, concerning this letter that was sent by Tracey,  
9       you said there was a telephone call made after that letter,  
10       correct?

11       A.       Some time around that letter, yes. I don't know if I  
12       got the phone call before I received the letter or after.

13       Q.       It was a phone call from Tracey to you, not the other  
14       way around, correct?

15       A.       Correct.

16       Q.       Sometimes students were put on silence, correct?

17       A.       Yes.

18       Q.       If they were on silence, how could they ask for their  
19       medications?

20       A.       They could always talk to staff.

21       Q.       I want to draw your attention to Defendants' Exhibit I.

22       A.       Is that what I have right here?

23       Q.       I think that's the wrong one. I'll lay this on the  
24       ELMO so that you can hopefully see that. Let me take this  
25       out. Can you tell us whose initials are placed in here? How

1 many different initials do you recognize?

2 A. About five I think is what I counted.

3 Q. What names?

4 A. Laura Mathews, Sarah Day, myself, Kim Watson, that's  
5 all I see. I might be looking over one, but that's all I  
6 see.

7 Q. How many -- can you look at this and tell me how many  
8 days this covers?

9 A. I can count it. I'd have to look because some entries  
10 are for the same day.

11 THE COURT: Mr. Stilley, are you concerned about  
12 what period of time?

13 MR. STILLEY: Yes.

14 THE COURT: Why don't you just ask this instead of  
15 counting days. Let's try to move this, you know, show along.  
16 Please.

17 MR. STILLEY: Sure.

18 BY MR. STILLEY:

19 Q. The first date is 4/8, correct?

20 A. Yes.

21 Q. Do you know what year that was?

22 A. I don't remember.

23 Q. The last date is 5/19?

24 A. Yes.

25 Q. And this covers exactly one page, correct?

1 A. Yes.

2 Q. Any particular reason this log would encompass just one  
3 page? Was it just a stroke of luck that it came out to one  
4 page?

5 A. Yes, sir.

6 Q. Jessica was there for a considerably longer period,  
7 correct?

8 A. Unless you tell me what those dates were, I can't  
9 remember.

10 Q. Okay. 4/7/97 to 12/23/97, does that sound right?

11 A. Yes.

12 Q. So this was just about the first month that she was  
13 there, correct?

14 A. Yes.

15 Q. So would it be your testimony that there was no  
16 medicines given except for approximately -- actually the  
17 first month and a half?

18 A. Yes.

19 Q. Now, I don't see any worm medicine on this document; is  
20 that correct?

21 A. That's correct.

22 Q. But, however, the girls were routinely given worm  
23 medicine when they came; isn't that correct?

24 A. At some point in time, that's correct, yes.

25 Q. And that some point in time would be right when they

1 got there first, correct?

2 A. Right when they first got there, but I don't remember  
3 what dates we started giving that worm medicine. I don't  
4 remember those dates.

5 Q. Oh, are you saying that the administration of worm  
6 medicine is a recent thing? Was that not done for the entire  
7 period of time relevant to this lawsuit?

8 A. I don't know.

9 Q. Well, now, you were there at Mountain Park for that  
10 entire time, correct?

11 A. Yes, I was.

12 Q. And you processed the girls in repeatedly, correct?

13 A. All the time, yes.

14 Q. So you should know the protocol for doing that,  
15 correct?

16 A. Yes, I do.

17 Q. Was there any point in time when the protocol was not  
18 to give the girls worm medicine when they first got there?

19 A. Yes, there was.

20 Q. What dates?

21 A. I don't remember.

22 Q. Well, did this change come and go or did the change  
23 happen just one time that you started giving worm medicine?

24 A. Correct. We didn't give it, then we started giving it.  
25 And I do not remember what those dates were.

1 Q. And so it would be your testimony then based on this  
2 log the worm medicine was not being given at approximately  
3 4/7 of '97?

4 A. I don't know. The worm medicine was not recorded on  
5 this log.

6 Q. Well --

7 A. The worm medicine was recorded in the office just --  
8 that's the only -- that's where it was recorded, that worm  
9 medicine was.

10 Q. During your direct examination I was looking at the  
11 exhibits since they came in, and I saw one of them that said  
12 Pin-X?

13 A. I did too, yes, I did.

14 Q. Pin-X is the wormer, correct?

15 A. That's correct.

16 Q. Why would one of them have the logs but nothing else?

17 A. Excuse me?

18 Q. Why would one of the girl's medicine logs have the  
19 wormer but nobody else would have the wormer?

20 A. I was looking at it. It looked like that staff member  
21 recorded it there because she wanted to. I don't know. She  
22 recorded it on there. That's the only one I saw. I don't  
23 remember what those dates were.

24 Q. Did the staff members typically do things just because  
25 they wanted to?

1 A. I'm sorry?

2 Q. Did the staff members typically do things just the way  
3 they wanted to?

4 A. No, but she may not have been a staff that typically  
5 gave the worm medicine, so she wanted to make sure it got  
6 recorded, but didn't know where to record it.

7 Q. So this log is not a complete log of the medication  
8 given to the girls, correct, for Jessica?

9 A. I do not know if Jessica received any worm medication.

10 Q. Well, if there was a separate log kept somewhere else  
11 in the office, wouldn't that --

12 A. It wasn't a log. We just wrote down when we gave them  
13 the worm medicine so that we would know that seven days later  
14 they were supposed to get it again.

15 Q. What was that written down on?

16 A. Just a piece of paper in a calendar. Times we wrote it  
17 on the calendar. They came in on the 12th, we gave them the  
18 worm medicine, and then we would mark the day, seven days  
19 later they were supposed to get it again.

20 Q. So it was a calendar that was written on?

21 A. Sometimes it was a calendar, sometimes it was just a  
22 piece of paper.

23 Q. Were those papers maintained?

24 A. No, sir.

25 Q. Records were not kept?

1 A. Not of the worm medication, no.

2 Q. Now, didn't Ms. Brazil get some prescription medication  
3 from a doctor?

4 A. I don't remember. She might have.

5 Q. Do you see any prescription medication from a doctor on  
6 this sheet?

7 A. I see medication here that I don't know if it's a  
8 prescription or not. But I see a medicine on here that I  
9 don't remember ever buying, this Poly-Histine. I'm assuming  
10 it's a prescription, but I lack that medical knowledge.

11 Q. Now, it appears that the times of the administration of  
12 these drugs, it kind of varies, it goes in various different  
13 times. Was that the way it was normally done?

14 A. Can you be a little more clear on what you're asking  
15 me?

16 Q. Well, I see an 8 p.m., a 7 p.m., a 1 p.m., an  
17 8:30 p.m., and 7:15 a.m., 10 p.m., 6 p.m. Was that the way  
18 it was done, you would just pass out the medicine at all  
19 different times of the day?

20 A. If they needed it at any time we would. But we did  
21 have scheduled medicine calls. And, you know, we would try  
22 to schedule it at 7:15, but it may start at 7:15 but there  
23 were so many girls in line by the last time the last person  
24 got in line it may be 7:30 by the time she received hers.

25 Q. How many times a day did you have regular medicine

1 call?

2 A. Three times.

3 Q. And when was that?

4 A. Times changed, you know, but morning, noon, and  
5 evening.

6 Q. I'd like to draw your attention to the first page of  
7 Exhibit O. And I want to ask you a general question about  
8 these logs. When you made the copies that have been brought  
9 here today, did you make copies of the originals?

10 A. Yes.

11 Q. Where were those originals at at that point in time?

12 A. In each individual student's file.

13 Q. And where were those files maintained?

14 A. In the filing cabinet in the office.

15 Q. At Mountain Park?

16 A. Yes.

17 Q. Is that where those records are at right now?

18 A. Some of them. I'm not sure where their exact records  
19 are at this time.

20 Q. But you're saying that you did make these from original  
21 documents?

22 A. Yes, sir, from originals.

23 Q. Now, this starts 12/20 of 1999, correct?

24 A. Yes, sir.

25 Q. And on the second page it ends 5/7/01, correct?



1 A. Correct.

2 Q. Does that cover more or less the full time that Jamie  
3 was there?

4 A. Well, you'll have to tell me what dates she was there.  
5 I can't remember every student's dates of enrollment.

6 Q. From approximately 9/7/99 to 5/24/01.

7 A. Yes.

8 Q. So it's fair to say that that -- that medicine was  
9 apparently distributed over the period of time that she was  
10 there, correct?

11 A. Can you ask me that one more time?

12 Q. The medication represented by this log was evenly  
13 distributed over time, correct?

14 A. I really don't know what you're asking me. I'm sorry.  
15 I'm a little bit confused on what you're asking me.

16 Q. Well, I believe with respect to the previous student  
17 that the medication was all crammed in a short period of time  
18 whereas with this student the medication is sprinkled out  
19 over the period of the enrollment?

20 A. That's correct.

21 Q. And there is Midol on this sheet, correct?

22 A. Yes.

23 Q. Did you testify on direct that that was for cramps?

24 A. Yes.

25 Q. What's your basis of knowledge that this was for

1 cramps?

2 A. When a student would come and tell us that they had  
3 cramps, we would give them Midol.

4 Q. You did testify on direct that it was for cramps,  
5 correct?

6 A. I don't know if I testified for this particular one,  
7 but Midol was for cramps, yes. I didn't have any other  
8 reason to give Midol. That's what that medication is for.

9 Q. And I heard you testify about the Tylenol too, correct?

10 A. Yes.

11 Q. And you also testified that the Tylenol was for cramps,  
12 correct?

13 A. Correct. Sometimes a girl would tell me I've taken the  
14 Midol, it just doesn't work, can we try something else.

15 Q. What's the basis of knowledge that Tylenol is for  
16 cramps?

17 A. In what instance?

18 Q. Well, there are several instances of Tylenol, and I've  
19 got the first sheet on. You tell me if you can tell which  
20 one of these were for cramps.

21 A. I don't know if any of these Tylenol was for cramps. I  
22 did not say that these Tylenol were for cramps.

23 Q. You don't have any personal knowledge that any of them  
24 are for cramps, do you?

25 A. Any of these Tylenol, no, but I had a form a minute ago

1 and it had cramps written beside the Tylenol, so I knew that  
2 one was for cramps. This one does not say that so I don't  
3 know exactly what this one was given for.

4 Q. I'd like to draw your attention to Exhibit Z. That's  
5 Shari Lueken's medication log, correct?

6 A. Correct.

7 Q. And the first two entries are Pin-X?

8 A. That's correct.

9 Q. And that is a wormer, correct?

10 A. Correct.

11 Q. And the dates on that are 6/28 and then 7/3 of 2000,  
12 correct?

13 A. Correct.

14 Q. Those are one week apart, correct?

15 A. Yes.

16 Q. And the dosage is given?

17 A. Yes.

18 Q. Whose initials?

19 A. Rachel Smith and Julie Gerhardt.

20 Q. Who is Rachel Smith?

21 A. That's my daughter and a staff member.

22 Q. Who is Julie Gerhardt?

23 A. That was a staff member and my daughter-in-law.

24 Q. They had lots of experience at Mountain Park, correct?

25 A. They had lots of experience at Mountain Park?

1 Q. Correct.

2 A. Yes.

3 Q. They knew the protocol very well, correct? They knew  
4 what forms had to be filled out and how they needed to be  
5 filled out, correct?

6 A. I wouldn't say they knew what every form was supposed  
7 to be filled out, no. Some of us dealt with different forms.  
8 Not everybody dealt with every form, no, sir. There were  
9 some forms that I would go to the staff and say -- I may have  
10 implemented the form, but I didn't have, you know, direct  
11 working with it every day, and I would go to the staff and  
12 say now how are we filling this out and what are we doing. I  
13 would have to do that quite often.

14 Q. You aren't suggesting that Rachel Smith was not  
15 competent to fill this out, are you?

16 A. Oh, no, not in any way.

17 Q. And you aren't saying that Julie Gerhardt was  
18 incompetent to fill this out, are you?

19 A. Absolutely not. But Rachel Smith wasn't always an  
20 employee there. You know, there was -- so she may not have  
21 known where we filled that out. There was a time when she  
22 got married, she was in college and away, and when she came  
23 back she may have -- you know, she would have filled this  
24 out. She would have filled this out. Things change. She  
25 may not have known where to fill that out at.

1 Q. Now, this medication log actually covers four pages,  
2 correct?

3 A. I have more than four pages here. Are you asking --

4 Q. Maybe I'm missing one. Okay. There's just a little  
5 bit on the fifth page; is that correct?

6 A. I have eight pages here.

7 Q. Okay. But that includes a blank page and a medical  
8 information sheet?

9 A. That's correct.

10 Q. And a record of illnesses and injuries, correct?

11 A. Correct.

12 Q. The record of illness and injury should include a  
13 record of things like scrapes, bruises, cuts, correct?

14 A. Yes, if it warranted some medication.

15 Q. You had substantial contact with Shari Lueken, correct?

16 A. Yes, I did.

17 Q. You really were in charge of her for most, if not all,  
18 of her stay, correct?

19 A. Yes.

20 Q. Didn't it come to your attention that Shari Lueken had  
21 received some severe cuts and bruises?

22 MR. BRIGGS: Objection, Your Honor, you've ruled on  
23 this already.

24 THE COURT: Sustained.

25 MR. STILLEY: Your Honor, can we approach on that?

1 THE COURT: No.

2 BY MR. STILLEY:

3 Q. Can we rely on this record of illness and injuries to  
4 say that this was all that was treated as far as illness and  
5 injuries while Shari was at Mountain Park?

6 A. All that was treated by a staff member, yes.

7 Q. And that was supposed to be the only persons allowed to  
8 treat other students, correct?

9 A. Yes. I mean, a doctor -- if a doctor treated a student  
10 I didn't record it here because the doctor had records.

11 Q. I'd like to draw your attention to Exhibit CC, Erika  
12 Teasley -- I'm sorry, BB, that's correct. This covers the  
13 dates from 2/21 of 2003 to 5/12 of 2003, correct?

14 A. Yes.

15 Q. And you would have no way to dispute that Erika Teasley  
16 came on 1/18 of 2003, correct?

17 A. I have no way of knowing what now?

18 Q. You wouldn't -- you could not dispute that Erika  
19 Teasley came on the 18th of January 2003, correct?

20 A. No.

21 Q. So apparently there is no entry from that date until  
22 2/21; is that correct?

23 A. That's correct.

24 Q. Did you look carefully to see if there was another page  
25 that was missing?

1 A. Yes.

2 Q. Now, as part of this information that you got, one of  
3 those sheets says no Midol, correct? And this is not -- you  
4 have this in front of you. I'll lay this on the screen.

5 A. Yes, I do see that.

6 Q. So Mountain Park staff would be on notice that they  
7 should not give Midol to this particular student, correct?

8 A. Correct.

9 Q. Take a look at these times. These times appear to be  
10 quite random. And would it not be fair to say that these  
11 really don't match up with the three times a day of  
12 administration of medicine?

13 A. The 7 a.m. is a very good time for medication -- I  
14 mean, it was a very good possibility that that was a regular  
15 medicine call. Like I said, a student could get medication  
16 any time of the day. If they were complaining of a headache  
17 at 4:30 in the afternoon and they needed Tylenol, we did not  
18 make them wait until medicine call to get their Tylenol.

19 Q. Were they allowed to take any Tylenol with them at  
20 medicine call so they could take some in between times?

21 A. No, sir.

22 Q. Now, you testified on direct that the girls could get a  
23 pregnancy test at any time they wanted it, correct?

24 A. If they were a student that had been there for several  
25 months and thought they were pregnant, yes, we would give

1       them a pregnancy test. Now, if you'd say any time they want  
2       it. If a student had been there seven months and she just  
3       decided she wanted a pregnancy test, I would not see any  
4       reason to give her one. She had not had any contact with any  
5       young men. So I would not see any reason to give her a  
6       pregnancy test at that time.

7       Q.       So within the first three months are you saying the  
8       student could get a pregnancy test any time they wanted it?

9       A.       If they asked for a pregnancy test and thought they  
10      might be pregnant, it was to my advantage to know if they  
11      were pregnant, so I would need to know if they were pregnant.

12     Q.       And you purchased a whole lot of these tests?

13     A.       I did.

14     Q.       And used a whole lot of these tests?

15     A.       Yes, I did.

16     Q.       And isn't it true there was only perhaps a couple of  
17      actual pregnancies of the girls during the time that you  
18      worked at Mountain Park?

19     A.       That's correct.

20     Q.       Now, when you went to Wal-Mart to get these goods for  
21      the girls, you never got any tampons, correct?

22     A.       No, I did not.

23     Q.       They were not allowed to have those, were they?

24     A.       That's correct.

25     Q.       Is there a particular reason for that?



1 A. It was policy when I started on staff there.

2 Q. You testified also on direct about the safety pin that  
3 Jamie Kaufmann says she swallowed. Did you look at Jamie  
4 Kaufmann when the incident occurred?

5 A. Did I look at her? I spoke with her.

6 Q. Did you look in her mouth?

7 A. No, I did not look in her mouth.

8 Q. You did not check for blood?

9 A. No, I did not.

10 Q. Was she obviously in distress?

11 A. No.

12 Q. Was she able to talk to you easily?

13 A. Yes, she did.

14 Q. Did she seem calm?

15 A. I would -- you know, calm has -- I guess I could say  
16 that someone was calm and you might think they were not calm  
17 or I might not think they are calm and you think they are  
18 calm. I don't know if I have the -- she was not acting  
19 irrational.

20 Q. Was she showing signs of distress?

21 A. No, she was not. She was walking around and talking to  
22 me.

23 Q. Wouldn't it make sense if someone said they did  
24 something like this to check, to try to somewhat verify the  
25 story to see if there was any blood or any anything of that

1 nature to verify the claim?

2 A. She told me she swallowed a safety pin. I mean, she  
3 swallowed it, it's gone so --

4 Q. An open safety pin could very well cut as it's going  
5 down.

6 A. She did not tell me it's an open safety pin.

7 Q. Did you think it was a closed one?

8 A. Yes, I did. To my recollection she told me it was  
9 closed. We discussed in length about what she had swallowed,  
10 and, you know, I thought it was a straight pin at first, and  
11 she said, no, it was a safety pin. So I started asking her  
12 about the safety pin. I came to the understanding that that  
13 safety pin was a closed safety pin and that she swallowed it.

14 Q. Did you say it was really hard to get into the dentist,  
15 hard to get an appointment?

16 A. It was. He was very busy dentist, very good dentist.

17 Q. Did you have any other dentist that you could take the  
18 girls to?

19 A. There were other dentists in Poplar Bluff, yes. I  
20 chose this one because he was a very good dentist.

21 Q. Did you have a relationship with any of the other  
22 dentists?

23 A. Not me personally, no.

24 Q. Did Mountain Park have a relationship with any of the  
25 other dentists?

1 A. With an orthodontist.

2 Q. What about a dentist?

3 A. There were other dentists that we had used in the past.  
4 I don't know that there was a relationship with them. But we  
5 did use other dentists at times.

6 Q. Would you agree that Erika Teasley's broken tooth was a  
7 dental emergency?

8 MR. BRIGGS: I'll object, Your Honor, to the extent  
9 it calls for a medical conclusion or dental conclusion.

10 MR. STILLEY: It relates to her reaction and how she  
11 would provide care.

12 THE COURT: Well, you better rephrase that.

13 BY MR. STILLEY:

14 Q. Did you find out about Erika Teasley's broken tooth?

15 A. I did not know she had a broken tooth. I knew she had  
16 a toothache.

17 Q. Did you see any swelling?

18 A. I did not look.

19 Q. Well, did you look at her face?

20 A. I saw her face every day.

21 Q. Did you know that she was repeatedly getting medication  
22 for this?

23 A. I knew that she got some medication for a toothache,  
24 yes.

25 MR. STILLEY: Your Honor, if I could have just a

1 moment with my clients.

2 THE COURT: A moment?

3 MR. STILLEY: Thank you, Judge.

4 BY MR. STILLEY:

5 Q. Tracey Ozuna was at Mountain Park twice?

6 A. Yes.

7 Q. But there's only one sheet in the records; is that  
8 correct?

9 A. That's correct.

10 Q. Why would there only be one sheet?

11 A. Because she didn't take any medication.

12 Q. On one of her stays at Mountain Park she took no  
13 medication whatsoever?

14 A. We had a lot of students who never asked for any  
15 medication.

16 Q. Well, wasn't it your protocol to set up a sheet when  
17 the student got there and to put medical information like  
18 allergies and things like that in the record?

19 A. That form came later. I don't know what date, but we  
20 did not always have that form. We had a place for allergies  
21 in their application, but not -- we didn't always have a form  
22 in the medical log for allergies, that came later.

23 Q. When did that come?

24 A. I do not remember when.

25 MR. STILLEY: Pass the witness.

1 THE COURT: Counsel, come up.

2 (The following proceedings were held at the bench  
3 and outside the hearing of the jury:)

4 THE COURT: You going to give him time to get the  
5 depositions? You better cut it or let it go. We need to  
6 take a recess now.

7 MR. BRIGGS: I just have one or two questions. You  
8 want to take a recess now?

9 THE COURT: We're going to take a recess now. You  
10 going to ask the one or two questions, you better ask them  
11 quick then because we need to get this courtroom open. Let's  
12 end this stuff.

13 MR. BRIGGS: Very well.

14 REDIRECT EXAMINATION

15 BY MR. BRIGGS:

16 Q. Mrs. Gerhardt, did you ever give Shari Lueken a cold  
17 shower?

18 A. No, sir.

19 MR. BRIGGS: That's all I have, Your Honor.

20 MR. STILLEY: That's all I have of this witness.

21 THE COURT: Very well. Thank you, Ms. Gerhardt.  
22 You may step down.

23 Ladies and gentlemen of the jury, we'll take our  
24 luncheon recess at this time. Return to your jury room at  
25 1:15. Recall the admonition. Have a pleasant lunch.

1           And, counsel, where are we? Where are we? It  
2       didn't look good to me today what we got accomplished.

3           MR. SCHWARTZ: As far as finishing today, Judge?

4           THE COURT: Yes.

5           MR. SCHWARTZ: I don't think we're going to finish  
6       today.

7           THE COURT: When do you think we'll finish with the  
8       evidence?

9           MR. SCHWARTZ: Tomorrow.

10          THE COURT: How long tomorrow?

11          MR. SCHWARTZ: Before lunch, by lunch time.

12          (Court in recess from 12:14 p.m. until 1:24 p.m.)

13          THE COURT: You may be seated, please. You want to  
14       call your next witness.

15          MR. BRIGGS: Your Honor, defendants call Dr. Richard  
16       Gayle.

17          THE COURT: Very well.

18                       RICHARD GAYLE, D.O.,

19       Having been first duly sworn, was examined and testified as  
20       follows:

21                       DIRECT EXAMINATION

22       BY MR. BRIGGS:

23       Q.     Please state your name for the record.

24       A.     Richard Gayle.

25       Q.     And how do you spell your last name?

1 A. G-a-y-l-e.

2 Q. Sir, what's your profession?

3 A. I'm a family physician.

4 Q. Do you go by doctor?

5 A. Yes.

6 Q. Doctor, could you briefly describe for the judge and  
7 the jury your educational background and professional  
8 training?

9 A. I attended Central College for four years for my  
10 undergraduate training. I went to medical school at  
11 Kirksville College of Osteopathic Medicine and Surgery in  
12 Kirksville, Missouri for four years. I interned at Ft. Worth  
13 Osteopathic Hospital for one year in Ft. Worth, Texas. I was  
14 drafted into the U.S. Army. I served two years in the Army,  
15 and one year of it was in Vietnam. One year was at Fort  
16 Hood, Texas. I was discharged from the Army in 1970. And  
17 I've been in general practice in Piedmont, Missouri ever  
18 since.

19 Q. In the course of your training did you have occasion to  
20 do some research, Doctor?

21 A. Yes, I did.

22 Q. And what was that in?

23 A. I spent one year in cancer research at Washington  
24 University School of Medicine in St. Louis, Missouri, and I  
25 spent one year in muscular dystrophy research at the

1 University of Arkansas Medical School at Little Rock.

2 Q. And when did you graduate from medical school?

3 A. In 1967.

4 Q. So you've been practicing now 38 years or thereabouts?

5 A. Yes, sir.

6 Q. Doctor, are you a general or family practitioner?

7 A. Yes, sir.

8 Q. Where do you practice?

9 A. In Piedmont, Missouri.

10 Q. How is that practice set up?

11 A. It's a clinical practice. We have four physicians now  
12 and two nurse practitioners.

13 Q. And, Doctor, do you also have privileges at any  
14 hospitals?

15 A. Yes, I do. I have courtesy privileges at Poplar Bluff  
16 Regional Medical Center in Poplar Bluff, Missouri.

17 Q. And what's the name of your practice?

18 A. Wayne Medical Center.

19 Q. Doctor, in the course of this litigation one of the  
20 plaintiffs has claimed that she was brought to your office  
21 and went in through a back door. Could you explain what that  
22 refers to?

23 A. We have an emergency entrance in the back of our clinic  
24 that permits us to bring people in by either gurney or  
25 wheelchair or they can walk in.



1 Q. In the course of your practice have you had occasion to  
2 treat children?

3 A. Yes, I have.

4 Q. And you've also consulted and treated women I take it?

5 A. That's correct.

6 Q. Are you trained and experienced in obstetrics and  
7 gynecology?

8 A. Yes, I am.

9 Q. And in your practice have you had an opportunity to  
10 become familiar with the defendants, Pastor Bob and Betty  
11 Wills and their ministry at Mountain Park?

12 A. Yes, I have.

13 Q. Can you describe that?

14 A. I have treated their students since they started their  
15 school several years ago, and I treated them until they  
16 closed the school.

17 Q. And in the course of that professional relationship did  
18 you ever have occasion to go out to Mountain Park and visit  
19 the campus?

20 A. Yes, on several occasions.

21 Q. And you saw what the campus was like?

22 A. Yes.

23 Q. Did you have occasion ever to treat any patients out  
24 there?

25 A. Yes, I did.

1 Q. Could you describe that?

2 A. At one time Mrs. Wills called me, they had an outbreak  
3 of stomach flu, and she said that she had numerous girls that  
4 were sick. They had vomiting and diarrhea, and she couldn't  
5 bring them all to the clinic. She wanted to know if there  
6 was something that I could do to help her out. And I told  
7 her that I would just come out and see some of the girls and  
8 take care of her problem. Which I took a nurse, we went to  
9 Mountain Park. We set up a make-shift clinic in the girls'  
10 dormitory and treated numerous girls.

11 Q. Now, that's not your typical practice, though; is that  
12 correct?

13 A. No, that's not.

14 Q. Typically if a student needs to see you, they are  
15 brought to your clinic?

16 A. That's correct.

17 Q. How frequently would you see students from Mountain  
18 Park?

19 A. Every day.

20 Q. Now, getting into the issues of this case, Doctor,  
21 we've heard that some of the plaintiffs have complained that  
22 they had missed their periods while they were at Mountain  
23 Park for several months. Did you ever have occasion to  
24 discuss students missing their periods with Mrs. Wills?

25 A. Yes, several times.

1 Q. And can you describe the nature of those discussions?

2 A. Usually we discussed about how long the girl had been  
3 at Mountain Park, what background she came from, how long  
4 that she had missed the period, and we went from there.

5 Q. And, Doctor, if a student had just missed her period  
6 for one month, typically would you want to see that student?

7 A. No.

8 Q. Did you ever discuss with Mrs. Wills generally how that  
9 issue should be addressed with respect to students?

10 A. Yes, we talked about that. And if the girl wasn't  
11 having any other symptoms, and we would let it ride for maybe  
12 two, three, four months.

13 Q. Now, Doctor, have you ever heard of something called  
14 summer camp syndrome?

15 A. Yes.

16 Q. Can you describe for the judge and jury what that is?

17 A. That's where you take a person from their normal  
18 habitat and put them into a different situation. It changes  
19 their bodily functions.

20 Q. And has this, quote, syndrome been referred to with  
21 respect to girls who miss their periods if they change their  
22 habitats?

23 A. Yes.

24 Q. And if a student didn't have any other medical process  
25 or disease process, would simply just missing a period for

1 several months, would that be an indication of an independent  
2 disease process or injury?

3 A. Not always.

4 Q. Indeed, in looking at young women who have missed their  
5 periods in relationship to this summer camp syndrome, is it  
6 frequently the case they go back to their ordinary cycles?

7 A. Yes.

8 Q. And there's no long-term pathological defect or  
9 disease; is that correct?

10 A. That's correct.

11 Q. Now, in the course of your 38 years of practice, have  
12 you had occasion to hear from parents who have complained  
13 that their children have swallowed foreign objects?

14 A. Yes.

15 Q. Is that really that unusual a situation?

16 A. Not in small children, no.

17 Q. And, for example, children might swallow pennies or  
18 other small objects. Is that what you're referring to?

19 A. Yes.

20 Q. In this particular case we've heard from one of the  
21 plaintiffs that she swallowed a safety pin. Now, Doctor,  
22 based upon your experience dealing with persons who swallow  
23 foreign objects, what would be the appropriate course of  
24 treatment for someone who had swallowed a safety pin in your  
25 opinion?

1 A. We usually just treat them with a high bulk or high  
2 fiber diet and wait for two or three days and everything  
3 usually passes.

4 Q. Now, would giving a student then bread, for example,  
5 would that constitute what you're referring to?

6 A. Yes.

7 Q. And is just giving bread in your experience and opinion  
8 sufficient to address it?

9 A. Yes, it is.

10 Q. Now, if the safety pin happened to be open, in your  
11 opinion and experience would it be reasonable that a safety  
12 pin could actually be swallowed without getting caught on  
13 something in the mouth or throat?

14 A. It would be very difficult.

15 Q. Okay. Why is that?

16 A. Well, there's numerous structures in the mouth and the  
17 back of the throat that the pin could probably lodge on, and  
18 it would also be very difficult for an open pin to pass  
19 through the esophagus into the stomach.

20 Q. And with respect to that, some of the places where it  
21 could get caught, where would those include inside your mouth  
22 and throat?

23 A. The roof of the mouth, the tongue, the tonsils, the  
24 tonsillar pillars, the soft pallet, many structures back in  
25 the back of the throat.

1 Q. Now, Doctor, we've heard that some of the students  
2 complained that they suffered constipation while at Mountain  
3 Park. Doctor, what do you recommend as the first course of  
4 treatment for a student who has constipation?

5 A. Usually a high fiber diet.

6 Q. Are there any particular foods that you would associate  
7 with that?

8 A. Vegetables and lots of fruits -- excuse me, lots of  
9 fruits.

10 Q. Lots of fruits. What about prunes?

11 A. Yes.

12 Q. Actually is that probably the best fruit you could  
13 have?

14 A. Yes, it is.

15 Q. Would prune juice help? Do you need some water,  
16 Doctor?

17 A. No.

18 Q. Would prune juice be something that could be given to a  
19 patient that has constipation to treat them?

20 A. Yes, on lots of occasions we use a mixture of prune  
21 juice and apple juice in a 50/50 mixture and heat it and have  
22 them drink it warm.

23 Q. Now, Doctor, we have five plaintiffs in this particular  
24 case. I want to refer you to two particular plaintiffs; one,  
25 Jessica, her maiden name is Brazil and now Deboi, and Shari

1 Lueken. Doctor, did you have occasion to see those students?

2 A. Yes, I did.

3 Q. And, Doctor, if we could, let's just start with Jessica  
4 Deboi. On how many occasions did you see her?

5 A. On two occasions.

6 Q. And when was the first occasion?

7 A. It was May the 8th of 1997.

8 Q. Doctor, maybe I should just back up a little bit. When  
9 you saw students from Mountain Park, did you take histories  
10 from them before you examined them?

11 A. Yes, I did.

12 Q. And you talked to them personally?

13 A. Yes.

14 Q. And when you took the history, what were you -- what  
15 information were you seeking?

16 A. Usually we were asking what their chief complaint was,  
17 why they were there, why they came to see us. And some  
18 history and to -- their past illnesses.

19 Q. Now, with respect to Ms. Brazil and now Deboi, what was  
20 her chief complaint the first time you saw her in May 1997?

21 A. She was complaining that she had an earache and she had  
22 some congestion in her sinuses.

23 Q. And did you treat that, Doctor?

24 A. Yes, I did.

25 Q. Now, you said there was a second occasion when you saw

1 her. When was that?

2 A. That was May the 28th of 1997.

3 Q. And, Doctor, once again, did you take information as  
4 far as what her complaints were?

5 A. Yes, I did.

6 Q. And did you do an examination of her?

7 A. Yes, I did.

8 Q. What was her chief complaint or complaints?

9 A. She had come back because she was still having some  
10 problems with her ear infection. And she requested to be  
11 tested for STDs.

12 Q. Okay. And with respect to the STDs, did you have  
13 occasion to do a pelvic exam with her at that time?

14 A. Yes, I did.

15 Q. And did you conduct a pap, what's commonly referred to  
16 as a pap smear with her?

17 A. Yes, I did.

18 Q. And, Doctor, during that visit did she complain to you  
19 that she had missed her periods while at Mountain Park?

20 A. No, she didn't.

21 Q. Referring to the earlier, the first visit, during that  
22 visit did Ms. Brazil, now Deboi, did she complain to you  
23 about missing her period?

24 A. No, she did not.

25 Q. Now, Doctor, if we could, let's refer to Shari Lueken.



1 Did you have occasion to see Ms. Lueken?

2 A. Yes, I did.

3 Q. And on how many occasions, Doctor?

4 A. On three occasions.

5 Q. And what was the date of the first occasion?

6 A. January the 10th, 2001.

7 Q. And once again, did you take a history from her?

8 A. Yes, I did.

9 Q. And then you did an examination of her?

10 A. Yes.

11 Q. And what was her chief complaint?

12 A. Her chief complaint was generally feeling achy all  
13 over, having a fever and a sore throat.

14 Q. And, Doctor, what was her diagnosis?

15 A. She had an upper respiratory infection and influenza.

16 Q. And did you treat that?

17 A. Yes, I did.

18 Q. Now, let's go to the second visit. I'm sorry, let's  
19 back up. With respect to the first visit, did Ms. Lueken  
20 complain about missing her period during that visit?

21 A. No, she did not.

22 Q. Did she complain about being constipated during that  
23 visit?

24 A. No, she did not.

25 Q. Did she complain about feeling groggy or lethargic?

1 A. No.

2 Q. And did she complain that her vision was bad?

3 A. No.

4 Q. Now, going to the second visit, when was that, Doctor?

5 A. That was May the 29th of 2001.

6 Q. And once again, you took a history and did an  
7 examination?

8 A. Yes, I did.

9 Q. And what was her complaint at that time?

10 A. She had a laceration to the right index finger.

11 Q. And, Doctor, did you verify that?

12 A. Yes.

13 Q. And what did you do?

14 A. We sutured the finger with six nylon sutures. She was  
15 given a tetanus booster and told to return in ten days for  
16 removal of sutures.

17 Q. And at that time did she complain about missing her  
18 period?

19 A. No, she did not.

20 Q. Did she complain about being constipated?

21 A. No, she did not.

22 Q. Did she complain about blurry vision?

23 A. No.

24 Q. Did she complain about feeling groggy or lethargic?

25 A. No, she did not.

1 Q. Now, you said there was a third visit. When was that,  
2 Doctor?

3 A. She returned on June the 8th, 2001 for suture removal.  
4 The sutures were removed and the wound was dressed and that  
5 was the last time she was seen.

6 Q. And, Doctor, during that visit did she make any  
7 complaints at all about missing her periods, feeling  
8 constipated or feeling groggy or lethargic or having vision  
9 problems?

10 A. No, she did not.

11 Q. Doctor, I hate to backtrack, I missed something I want  
12 to pick up. If we could go back to Jessica Brazil for just a  
13 moment. Now, with respect to her first visit, I know I'd  
14 asked you if she had complaints about missing her period  
15 during that time. And I believe your answer was she didn't  
16 complain of that; is that correct?

17 A. She did not.

18 Q. Did she complain about being constipated?

19 A. She did not.

20 Q. Did she complain about feeling groggy or lethargic?

21 A. No, she did not.

22 Q. Now, Doctor, your findings based on your evaluation  
23 when you actually met with these students and your earlier  
24 testimony, those opinions and findings, were those given by  
25 you based upon your training and experience and education and

1 to a reasonable degree of certainty?

2 A. Yes.

3 Q. Okay. And that's to medical certainty?

4 A. Yes, sir.

5 MR. BRIGGS: One minute, Your Honor. Very good.  
6 Thank you. Thank you, Doctor.

7 THE COURT: Cross-examination.

8 CROSS-EXAMINATION

9 BY MR. STILLEY:

10 Q. How many times have you testified in court?

11 A. How many times have I testified in court?

12 Q. Correct.

13 A. Numerous times.

14 Q. You testified as an expert on numerous occasions,  
15 correct?

16 A. Yes, sir.

17 Q. About how many times?

18 A. Fifteen.

19 Q. And of those 15 times, can you tell us what percentage  
20 of those times were for the defendant?

21 MR. BRIGGS: Objection, Your Honor. What's this  
22 relevant to? Also I think this is an issue on which we've  
23 already discussed and you've ruled.

24 THE COURT: I'm going to sustain this. You better  
25 start someplace else.

1 MR. STILLEY: Your Honor, can we approach? I've got  
2 some other things I do not want to say. Can I approach?

3 THE COURT: I think you need to start someplace  
4 else.

5 MR. STILLEY: Your Honor, it will make this a whole  
6 lot simpler if I can approach. Please.

7 (The following proceedings were held at the bench  
8 and outside the hearing of the jury:)

9 THE COURT: Now, it only seems that you want to ask  
10 him about -- the only thing is relevant is if he has some  
11 bias or something on behalf of the defendants in this case.  
12 So you need to ask him, if that's your pitch, about a special  
13 relationship. But if you want to bring up other cases, which  
14 it seems you're always going off on some tangent, then no.  
15 But you got to -- see, you don't go to the heart of the  
16 matter first about a special arrangement or connection with  
17 these people, with the defendant. That's where you have to  
18 start and then you go off from there. But if you don't start  
19 there, I don't know where you're going. Because it's like  
20 I'm at the rodeo with you, big boy, I need a rope and a gun  
21 and a whip.

22 MR. STILLEY: Judge, I think you got all three. Let  
23 me say this, Judge.

24 MR. BRIGGS: He hasn't used them.

25 MR. STILLEY: Judge, here's what I'm trying to do.

1 And maybe somebody misunderstood my question. I was asking  
2 if they testified for these defendants those 15 times, that's  
3 not the question.

4 THE COURT: Okay.

5 MR. STILLEY: The question is how many times have  
6 you testified for the defense in a case. Is he primarily  
7 defense, is he 50/50, what is he.

8 MR. BRIGGS: We don't have an objection to that.

9 THE COURT: Fine. We're not getting into any other  
10 lawsuits relative to these defendants, okay.

11 MR. STILLEY: That's not what I was talking about.  
12 I had no intention of going there.

13 THE COURT: Fine.

14 (The following proceedings continued within the  
15 hearing of the jury:)

16 BY MR. STILLEY:

17 Q. You have testified on various -- on behalf of various  
18 different parties in lawsuits, correct?

19 A. That's correct.

20 Q. Do you remember how many times that your client was a  
21 plaintiff as opposed to a defendant?

22 A. No, I don't.

23 Q. Have you done some work for some other defendants?

24 A. Yes, I have.

25 Q. Have you done some work or some testimony for some

1 plaintiffs?

2 A. Yes, I have.

3 Q. Do you remember how long it's been since you've done  
4 any work for a plaintiff?

5 A. It's been several years.

6 Q. Have you testified very often in the last, say, five or  
7 six years?

8 A. Probably three times.

9 Q. And you have an hourly rate that you charge to testify,  
10 correct?

11 A. I guess my office has an hourly rate. I don't set an  
12 hourly rate.

13 Q. Do you not know what the hourly rate for you to testify  
14 here is?

15 A. No, I don't. I'm sorry.

16 Q. Now, you said that you've worked for Mountain Park  
17 since they opened up, correct?

18 A. I've seen students from there. I don't work for  
19 Mountain Park.

20 Q. Who do you work for?

21 A. I work for Wayne Medical Center in Piedmont, Missouri.

22 Q. Do you see -- in working for Wayne Medical Center, do  
23 you see patients from Mountain Park?

24 A. That's correct.

25 Q. And you have done that since about 1987, correct?

1 A. That's correct.

2 Q. And you've been the primary physician for the students  
3 at Mountain Park, correct?

4 A. Yes.

5 Q. So you've seen a whole lot of girls from Mountain Park,  
6 right?

7 A. That's correct.

8 Q. And from -- isn't it true from the very inception of  
9 your relationship with Mountain Park, you had a great number  
10 of girls coming up with missed periods?

11 A. That's correct.

12 Q. Would it be fair to say that a majority of the girls  
13 there missed their periods for an extended period of time?

14 A. I wouldn't say the majority. There was several, but  
15 not -- no, I wouldn't say the majority of them.

16 Q. And that frequently extends to six, nine, or 12 months,  
17 correct?

18 A. Sometimes, yes.

19 Q. Would it be fair to say frequently?

20 A. Yes.

21 Q. Have you ever seen any other organization that had so  
22 much of the cessation of menses?

23 A. Yes, the military.

24 Q. Okay. So you're telling us that females in the  
25 military also have the same problem, at least to some degree?



1 A. Yes.

2 Q. Would you say it was to the same degree that it is at  
3 Mountain Park?

4 A. Probably, maybe even higher.

5 Q. And how long does that last with females in the  
6 military?

7 A. It varies with each individual.

8 Q. How many females in the military have you treated?

9 A. That's difficult to say. I spent a year at Fort Hood,  
10 Texas, and we saw numerous females. I probably saw an  
11 average of ten a day when I was in the clinic there.

12 Q. Okay. Is that the basis of your knowledge about  
13 females in the military having cessation of menses?

14 A. Yes.

15 Q. Have you ever read any articles or periodicals or  
16 treatises on that subject?

17 A. No, I haven't.

18 Q. So did you keep records from which you could determine  
19 what percentage of the females in the military had a  
20 substantial problem with cessation of menses?

21 A. No, I haven't.

22 Q. Did you see any substantial problem with cessation of  
23 menses after the initial boot camp training? Let me rephrase  
24 that question. Isn't it true that you did not see  
25 substantial problems with cessation of menses after the

1 initial boot camp training?

2 A. That I can't say.

3 Q. You cannot recall having a substantial problem with  
4 females in the military after the boot camp, correct?

5 A. I really didn't know if they were in boot camp or not  
6 in boot camp when I saw them. That wasn't part of the  
7 treatment.

8 Q. Did you not get a complete medical history on them?

9 A. Yes.

10 Q. You got a complete medical history. Did you also get a  
11 history of their enlistment in the military?

12 A. Not at that time. I had a medical record on them, and  
13 I had, you know -- and it was probably recorded in there.  
14 But that was not part of my treatment. That was not part of  
15 my examination.

16 Q. Now, did you say that was Fort Hood you were at?

17 A. Yes.

18 Q. Was that the only place where you treated the females  
19 in the military?

20 A. No, I treated some in Vietnam.

21 Q. Did you have a bigger problem in Vietnam or a lesser  
22 problem in Vietnam with the cessation of menses?

23 A. I don't recall that there was any problem.

24 Q. You don't recall any problem with cessation of menses?

25 A. No.

1 Q. But you do recall the problem of cessation of menses at  
2 Fort Hood?

3 A. Yes.

4 Q. What kind of facility is Fort Hood? Do they have a  
5 boot camp program?

6 A. No, they do not.

7 Q. What kind of program do they have?

8 A. They have the first and second armored division there  
9 with all of their support troops, and they have a large  
10 hospital.

11 Q. About how many females were there when you were  
12 involved with that program that were within your care that  
13 you might be called upon to treat?

14 A. You're asking me things that I don't really know.

15 Q. What I'm trying to find out is if you can give me some  
16 idea what percentage of the females there had cessation of  
17 menses.

18 A. You're still asking me something that I can't answer.

19 Q. So then you don't have any way to compare the cessation  
20 of menses at that military facility with the program at  
21 Mountain Park, correct?

22 A. It was a problem at Mountain Park and it was a problem  
23 in the military, but I can't tell you specific numbers.

24 Q. Do you also treat girls with -- at various other  
25 schools?

1 A. No, only the local high school, local grade school.

2 Q. And isn't it true at the local high school you have  
3 virtually no problem with the cessation of menses?

4 A. Occasionally.

5 Q. It would only be occasionally, correct?

6 A. Yes.

7 Q. Where at Mountain Park it could be fairly characterized  
8 as persistent and fairly significant, correct?

9 A. Well, it was more significant there than in the local  
10 high school, yes.

11 Q. Very more significant, was it not?

12 A. Yes.

13 Q. The cessation of menses, sometimes it's as serious --  
14 as an indicator of serious underlying problems, correct?

15 A. Sometimes, yes.

16 Q. Is it fair to say that cessation of menses is a  
17 medically significant condition?

18 A. Sometimes, yes.

19 Q. Well, tell us when it is and when it isn't.

20 A. When a girl is pregnant.

21 Q. Okay. Let's assume she's not pregnant and she's had  
22 cessation of menses for at least three months. Is that a  
23 significant medical condition?

24 A. Not necessarily.

25 Q. Tell us -- tell the jury what circumstances would cause

1 you to say that that might not be a significant medical  
2 condition.

3 A. If she had other symptoms that went along with that.

4 Q. And what other symptoms would that be?

5 A. If she had other symptoms of hormonal imbalance,  
6 thyroid dysfunction, things like that.

7 Q. So you don't think that if a person had hormonal  
8 imbalance or thyroid dysfunction, that wouldn't be a  
9 significant medical condition?

10 A. Yes, it is.

11 Q. And the cessation --

12 A. But they would have other symptoms beside just  
13 cessation of menses.

14 Q. Okay. Well, but the fact that they might have another  
15 condition wouldn't make the cessation of menses medically  
16 insignificant, would it?

17 A. No.

18 Q. It would still be medically significant if they had  
19 unexplained cessation of menses for at least three months?

20 A. If they had other symptoms.

21 Q. You're telling me if they don't have other symptoms  
22 it's not medically significant?

23 A. What I'm telling you is that if a girl has cessation of  
24 menses for three to four months and she does not have any  
25 other symptoms, it's not an alarming problem.

1 Q. Are you saying it's not medically significant?

2 A. Anything that changes your normal bodily function is  
3 significant.

4 Q. Well, how many months do you have to go before it  
5 becomes medically significant, assuming that there is no  
6 other explanation such as pregnancy?

7 A. I've seen girls go for as high as two years without  
8 menses and they had no other medical problems.

9 Q. Isn't it true that the literature on the subject  
10 routinely says that a female who misses periods for more than  
11 three months without an explanation should see a doctor?

12 A. Well, I think they should.

13 Q. Well, the question is doesn't the medical literature  
14 state that if a girl or female who misses their period for  
15 three months needs to see a doctor?

16 A. Yes, I would say so.

17 Q. So now let me ask the question again. Isn't it true  
18 that cessation of menses for at least three months without an  
19 explanation constitutes a medically significant condition?

20 A. No, it's still not a significant problem.

21 Q. Well, how many months do you have to go before it  
22 becomes a medically significant condition?

23 A. Well --

24 MR. BRIGGS: Your Honor, I think we've kind of tread  
25 this ground before a couple times.

1 THE COURT: Okay. Stop arguing with this witness.

2 Answer this question and then move on.

3 MR. STILLEY: I'm not arguing with the witness.

4 THE COURT: He can answer this question and move on.

5 How many months does it have to go, da, da, da, da. Go  
6 ahead.

7 A. How many months do they have to go to make it -- I just  
8 told you. If the girl has another problem, if she has  
9 another symptom then it's a significant problem. But there's  
10 lots of girls that go for months and months without periods  
11 and it doesn't mean anything.

12 Q. Well, how are the girls supposed to --

13 THE COURT: I told you, that was it. Move on.

14 MR. STILLEY: I'm moving on. This is new.

15 THE COURT: Right.

16 MR. STILLEY: I'm moving on to the next subject.

17 THE COURT: Go ahead.

18 BY MR. STILLEY:

19 Q. How does the girl who has had the cessation of menses  
20 figure out whether she needs to go to the doctor or not?

21 THE COURT: Sustained. Sustained.

22 MR. STILLEY: There's no objection.

23 THE COURT: He's not a mind reader. Go ahead to  
24 another subject. You think he's the Great Carnack or  
25 somebody? Please. How does the girl know? How does he know

1 what they know?

2 MR. STILLEY: Your Honor, let me ask a different  
3 question.

4 THE COURT: No, you go on to another subject.

5 BY MR. STILLEY:

6 Q. Do you know what the National Institutes of Health is,  
7 do you not?

8 A. Yes, I do.

9 Q. It's a very respected medical institution, correct?

10 A. That's correct.

11 Q. And they put out news releases from time to time,  
12 correct?

13 A. Yes, they do.

14 Q. Let me read a statement to you and ask if you agree  
15 with this statement. "Irregular periods in young women could  
16 be a warning sign for later osteoporosis."

17 A. That's correct.

18 Q. And would you agree that -- now, what is the name for  
19 absence or cessation of menses? What's that called  
20 medically?

21 A. Amenorrhea.

22 Q. If a girl -- if a female has amenorrhea, absence of a  
23 menstrual period, of three months or more, would you not  
24 agree that that indicates a serious probability of  
25 osteoporosis risk later in life?



1 MR. BRIGGS: Objection, Your Honor, asked and  
2 answered.

3 MR. STILLEY: It's been answered? It's been asked,  
4 but not answered.

5 THE COURT: You still on the same subject. But I'll  
6 allow this. Go ahead.

7 A. If you take a 15-year-old girl that has cessation of  
8 menses and you're wanting me to say that that's an indication  
9 that she's going to have osteoporosis later in life, I can't  
10 say that.

11 Q. It's a risk factor, it's an indicator?

12 A. Yes, it's a risk factor, but there's lots of risk  
13 factors to indicate osteoporosis later in life.

14 Q. Now, isn't the -- tell the jury what kind of doctor you  
15 are. What goes at the end of your name?

16 A. D.O.

17 Q. Explain to the jury what a D.O. is?

18 A. It's a doctor of osteopathic medicine and surgery.

19 Q. And what's the function of a D.O.?

20 A. To treat illnesses in human beings.

21 Q. Isn't it true that the stated purpose of a D.O. is to  
22 work to help the body heal itself? Isn't that one of the  
23 primary differences between a D.O. and an M.D., that the D.O.  
24 tries to work to help the body heal itself?

25 A. I think that's the primary purpose of all doctors.

1 Q. Well, isn't that what the literature says that the  
2 difference between a D.O. and an M.D. is?

3 A. Maybe. I'm not familiar with that.

4 Q. Well, you're familiar with the functions of a D.O.,  
5 correct?

6 A. I'm familiar with the training of a D.O. and what they  
7 do after they get out of the training.

8 Q. And isn't it fair to say that the one important way to  
9 help a female's body not develop complications later is to  
10 examine abnormal signs when they arise to see what's causing  
11 the problem?

12 A. That's the purpose of all physicians is preventive  
13 medicine.

14 Q. And it's your job to discover why that the abnormality  
15 has surfaced, correct?

16 A. Yes.

17 Q. And as part of your job in trying to determine how the  
18 abnormality has arisen, you need to look -- first, you need  
19 to look at the complete medical history; is that correct?

20 A. Repeat that, please.

21 Q. You need to look at the patient's complete medical  
22 history, correct?

23 A. That's correct.

24 Q. Did you get the complete medical history on any of  
25 these young ladies sitting at this table?

1 A. I don't know these young ladies.

2 Q. You would know her as Jamie Kaufmann. Did you ever get  
3 Jamie Kaufmann's complete medical record?

4 A. I don't believe I ever saw Jamie Kaufmann.

5 Q. How about Shari Lueken, you did see her.

6 A. Yes, I have a chart on her.

7 Q. Do you have a complete medical record?

8 A. Yes, I have.

9 Q. If she asked for that, can she get a copy of that later  
10 on today?

11 A. She sure can. She has to sign a medical release and  
12 she can have it.

13 Q. And Tracey, you would know her as Tracey Brazil. Did  
14 you ever see -- did you ever get a complete record?

15 A. I have a Jessica Brazil.

16 Q. Okay. There is Jessica and there's also Tracey. Did  
17 you get a complete medical record on Jessica?

18 A. Yes, I did.

19 Q. How about Tracey Brazil?

20 A. I don't recall seeing her.

21 Q. And how about Erika Teasley?

22 A. I don't recall seeing her either.

23 Q. Would it be fair to say if you had seen these girls as  
24 part of your practice or provided any sort of medical  
25 treatment, that you would have a record of that?

1 A. Yes, I would.

2 Q. So the absence of that record is a good indication that  
3 you didn't treat these girls?

4 A. That's correct.

5 Q. And do you have personal knowledge that in all  
6 probability you would be the only doctor to provide treatment  
7 if it was provided for the girls at Mountain Park?

8 A. Probably, yes.

9 Q. Now, you told the jury about something about summer  
10 camp syndrome?

11 A. Yes.

12 Q. That's one possible cause of amenorrhea. Is that how  
13 you pronounce that?

14 A. That's correct.

15 Q. That's one possible cause, correct?

16 A. That's correct.

17 Q. And there are a number of other -- there are a number  
18 of other things that can cause amenorrhea, correct?

19 A. That's correct.

20 Q. Can you tell the jury, just start with what you can  
21 think of that can cause this.

22 A. Pregnancy, a female infection, cancer, hormonal  
23 imbalance, thyroid imbalance, multiple diseases such as  
24 diabetes.

25 Q. Anything else?

1 A. That's the most common.

2 Q. The medical literature does indicate that there are  
3 certain other things that do cause amenorrhea, correct?

4 A. Yes.

5 Q. Can you think of what they are?

6 A. Well, there's numerous diseases that will cause  
7 amenorrhea.

8 Q. How about things other than?

9 A. Other than what?

10 Q. Disease.

11 MR. BRIGGS: Your Honor, at this point can we  
12 approach for a moment, please?

13 MR. STILLEY: Sure. I mean, if you don't mind.

14 (The following proceedings were held at the bench  
15 and outside the hearing of the jury:)

16 THE COURT: One of these times you're going to get  
17 it short. You see how he went straight to summer camp. He  
18 went straight to his home run, didn't he? What do you do,  
19 you beat around with the cancer, you talk all this crap. Why  
20 don't you go straight to your home run. You haven't figured  
21 that out on nothing because you always want to go way around  
22 the corner to get next door instead of walk right across the  
23 yard and you're right there. See, and this jury, they get  
24 tired. You need to go straight to your damn point. What's  
25 the objection?

1           MR. BRIGGS: My objection at this point, Your Honor,  
2 he's asking for things other than disease processes that can  
3 cause a women to lose her menstrual cycle. You know where  
4 he's going, he's going straight to the drugs. He's going  
5 straight to drugs.

6           THE COURT: No drugs.

7           MR. STILLEY: I'm not asking him what to say. I  
8 think I can keep him away from that. If they want to take  
9 him off the stand and tell him not to say that, that's fine.  
10 All I want him to do is have him admit that there were things  
11 that he knew caused the problems, he didn't test for it.

12          THE COURT: Like what?

13          MR. STILLEY: We got a whole list of things.

14          THE COURT: Oh, come on now. I'm going to preclude  
15 you from asking any more questions about this if you don't  
16 put your cards on the table.

17          MR. STILLEY: Judge -- just a minute, Judge. Let me  
18 put my cards on the table. I'm going to ask him what tests  
19 he did. Because there are some tests that are normally done  
20 to see what's going on.

21          MR. BRIGGS: This expert is going to -- who is his  
22 expert that's going to say that? These girls that he saw  
23 complained about cessation of menses, so why would he test  
24 for it.

25          MR. STILLEY: Well, they complained to the

1 personnel. They didn't get taken to the doctor.

2 THE COURT: They didn't complain to him.

3 MR. STILLEY: Well, they didn't get a chance to.

4 One was only there two or three months.

5 THE COURT: It doesn't matter. So there is nothing  
6 relative to him and these particular students as to cessation  
7 of menses, because there is no indication of any complaint to  
8 him about this by anybody. And you're just asking him  
9 generally, and here we are we've got this problem with this  
10 drug situation that you are -- it's out of the case. So I  
11 don't know where you are going with this.

12 MR. STILLEY: Judge, let me ask you this. How can  
13 we take drugs out of the case when drugs are what happened?

14 THE COURT: I don't know that.

15 MR. STILLEY: Judge, I've got two tests. I've got  
16 one test that says --

17 THE COURT: I'll tell you what, we're going to take  
18 a recess at this time, a brief one, about ten minutes, and  
19 you're going to move on from this whole subject matter of  
20 cessation of menses since it's clear that you want to move  
21 toward these drug tests. That's the end of it. I'll take a  
22 brief recess.

23 (The following proceedings continued within the  
24 hearing of the jury:)

25 THE COURT: We're going to take a brief recess.

1 Recall the admonition. Return to your jury room at 20 after.  
2 We're just going to take a ten-minute recess and we'll be  
3 right back. Recall the admonition.

4 (Court in recess from 2:12 p.m. until 2:23 p.m.)

5 THE COURT: You may be seated, please. You  
6 finished?

7 MR. STILLEY: No, Your Honor. May I approach just  
8 briefly? I think I've got a solution.

9 THE COURT: No. No.

10 BY MR. STILLEY:

11 Q. Who accompanied Jessica when she went to the clinic?

12 A. I can't tell you that. It was either Mrs. Wills or  
13 some of her employees.

14 Q. Did you allow the students to speak to you privately?

15 A. On some occasions I did.

16 Q. Some you did, some you didn't?

17 A. Yes.

18 Q. Typically the employee of Mountain Park would be in the  
19 room with the student, correct?

20 A. Yes, that's correct.

21 Q. And they would listen to everything that was said  
22 between the doctor and the patient, correct?

23 A. That's correct.

24 Q. Isn't it typically the case that the patient has the  
25 right to privacy?



1 A. Yes. And occasionally they did ask for -- to talk to  
2 me privately, and we did.

3 Q. They were forced to do that in front of the  
4 orientation -- strike that. They were forced to do that in  
5 front of the employee --

6 MR. BRIGGS: Objection.

7 A. They were forced --

8 Q. Let me rephrase that then. Were they given an  
9 opportunity to make that request so that the employee at  
10 Mountain Park wouldn't know about it?

11 MR. BRIGGS: Objection, Your Honor, that would call  
12 for speculation. What's the relevance?

13 A. I don't know about that. If the student said that she  
14 wanted to talk to me in private, I excused whoever was with  
15 her.

16 Q. But they had to make the request, correct?

17 A. But -- yeah, if they made the request to me.

18 Q. Did you tell us that Jessica asked for a test for STDs  
19 on her second visit?

20 A. Yes, that's correct.

21 Q. And you know from the way that Mountain Park was  
22 operated that there wouldn't be any reason to have concern  
23 about that from the first time to the second time, correct?

24 A. That's correct.

25 Q. And so you knew there must be some reason she wanted a

1 test, correct?

2 A. That's correct.

3 Q. Did you ask Jessica if she was missing her periods?

4 A. No, I did not.

5 Q. You knew there was a serious problem at the facility  
6 with cessation of menses?

7 A. Yes.

8 Q. And you knew that this young lady thought that she had  
9 some kind of problem?

10 A. Yes.

11 Q. And you didn't take it upon yourself to ask or find out  
12 if cessation of menses had occurred with her, correct?

13 A. She told me why she requested that.

14 Q. Do you have a copy of the results of the test?

15 A. Yes, I do.

16 Q. Can I take a look at that?

17 MR. STILLEY: Your Honor, may I approach?

18 Q. Do you have Jessica's complete medical history in front  
19 of you?

20 A. Yes, I do.

21 Q. How thick is it? It's just really thin?

22 A. Yes.

23 Q. Did you get any medical records from any previous  
24 providers?

25 A. No, I did not.

1 Q. So that's her complete medical record with respect to  
2 treatment at your clinic?

3 A. That's correct.

4 Q. Were you not concerned with what her medical history  
5 might be?

6 A. I ask them about their medical history in the past.

7 Q. Isn't it customary in the medical profession to request  
8 a complete medical history on a new patient?

9 A. Not always.

10 Q. When is it not appropriate to do that?

11 A. Only if it pertains to the problem she has at the time.

12 Q. Were you asked to provide records with respect to  
13 either Jessica or Shari Lueken in regard to this case?

14 A. Was I asked to provide them?

15 Q. Correct.

16 A. No, I have the records right here.

17 Q. You were not asked for copies then, correct?

18 A. I don't know if my office was asked to provide records  
19 or not, but I was not personally asked for them.

20 Q. Isn't it true that if a person actually did swallow an  
21 open safety pin that that would require a trip to the doctor?

22 A. Yes.

23 Q. Were you informed about the safety pin incident?

24 A. Yes, I was called.

25 Q. What were you told?

1 A. I was told that the girl swallowed a -- told Mrs. Wills  
2 that she swallowed a safety pin.

3 Q. Were you told whether it was open or closed?

4 A. No. I asked if it was open or closed, and she didn't  
5 know at the time.

6 Q. Did you ask her to go check in the subject's mouth?

7 A. I don't recall to be truthful with you. I don't recall  
8 if I asked if she looked in her mouth.

9 Q. That would be a normal thing to do, would it not?

10 A. My first thought is, is the girl in any pain, is she  
11 bleeding anyplace. And those questions were negative.

12 Q. So you were told she was not in pain?

13 A. Yes.

14 Q. And you were told she was not bleeding?

15 A. Yes.

16 Q. You told us about various places that a safety pin  
17 could get hung, correct?

18 A. Correct.

19 Q. And most of those -- well, were there any of those  
20 places where they would be likely to get hung that would be  
21 below the place you could see if you opened the mouth?

22 A. Yes.

23 Q. And what places would that be?

24 A. In the esophagus.

25 Q. And what places did you tell us about such that you

1 would still be able to see the safety pin?

2 A. Would be in the mouth or the back of the throat.

3 Q. And given the nature of a safety pin, is it fair to say  
4 there would be a substantial likelihood that an open safety  
5 pin would get stuck in one of those places whether you could  
6 still see it?

7 A. Probably.

8 Q. So based on your recollection, did you think that was a  
9 closed safety pin?

10 A. Yes.

11 Q. And so you didn't think it was necessary for the  
12 subject to come in?

13 A. She wasn't in any pain, she wasn't bleeding, it wasn't  
14 necessary for her to be seen.

15 Q. Now, how would you know she wasn't bleeding?

16 A. Because I was told that.

17 Q. By who?

18 A. By Mrs. Wills.

19 Q. And did Mrs. Wills tell you the basis of her knowledge  
20 that she was not bleeding?

21 A. Yes.

22 Q. How did she say she knew the subject was not bleeding?

23 A. She just told me she was not bleeding and she was not  
24 in any pain, was in no discomfort.

25 Q. But then she didn't tell you that she opened the mouth,

1 correct?

2 A. I don't recall that she did.

3 Q. I mean, you didn't tell her to open the subject's  
4 mouth, correct?

5 A. No, I didn't.

6 Q. Now, any time that you give out a prescription, there  
7 should be a record of that, correct?

8 A. Yes, there is. There is a record in my record.

9 Q. Did you give out any prescriptions for worm medicine?

10 A. Yes, on several occasions.

11 Q. Was it a rare thing or was it a common thing?

12 A. No, it was rare.

13 Q. When you did prescribe a medicine like that, was it  
14 always the same thing or was it a different kind of  
15 medication?

16 A. There's several different kinds.

17 Q. What kinds are they?

18 A. Back in those days there was Antiminth. And I can't  
19 remember the other one. It's not on the market anymore.

20 Q. It sounds like it's been a long time since you  
21 prescribed any worm medicine; is that correct?

22 A. To Mountain Park, yes.

23 Q. To any Mountain Park student?

24 A. Yes.

25 Q. About how many years?

1 A. How many years has Mountain Park been closed? I don't  
2 recall. I can't recall how many years.

3 Q. Would you say it was over five years?

4 A. Oh, yes.

5 Q. Maybe over ten years too?

6 A. Probably not that long.

7 Q. What's Poly-Histine?

8 A. It's an antihistamine.

9 Q. Is it a prescription drug?

10 A. Yes, it is.

11 Q. So if you -- do you have to see the patient in order to  
12 prescribe Poly-Histine?

13 A. No.

14 Q. You can -- what kind of information do you have to make  
15 the prescription?

16 A. If the patient has nasal congestion.

17 Q. So if Ms. Wills calls you and tells you a certain  
18 student has nasal congestion, is that enough information for  
19 you to prescribe the drug?

20 A. I usually ask if they have a fever. And if she said  
21 they didn't have a fever, they just had nasal congestion,  
22 upper respiratory symptoms, I'd probably give her  
23 Poly-Histine.

24 Q. Are there any other drugs that interact with  
25 Poly-Histine and cause a dangerous possibility?

1 A. Yes.

2 MR. BRIGGS: Your Honor, may we approach?

3 MR. STILLEY: Judge, this is not --

4 THE COURT: Where are we with your claims of battery  
5 and negligence that relate to where you're going?

6 MR. STILLEY: Your Honor, we've got this  
7 Poly-Histine on the sheets. We're told --

8 THE COURT: Right.

9 MR. STILLEY: -- this was given to these people.

10 THE COURT: Right. You're past that. What are you  
11 talking about now?

12 MR. STILLEY: I want to find out what it takes more  
13 to get this done, and I believe the doctor is going to say  
14 that there are drugs --

15 THE COURT: You don't know what he's going to say.  
16 You're the Great Carnack now, huh.

17 MR. STILLEY: Judge, let me see what he says.

18 THE COURT: No.

19 MR. STILLEY: Can I just get him to say --

20 THE COURT: You can't get him to say nothing. Now  
21 you're a ventriloquist? Please.

22 MR. STILLEY: I don't want to throw it -- I want to  
23 see what he says. And I think what he's going to say is that  
24 there are drugs --

25 THE COURT: Please. We don't want to know what you



1 think he's going to say.

2 MR. BRIGGS: Your Honor, we've been through this  
3 before. The Court has already excluded the issue we're  
4 pretty certain he's going to delve into.

5 MR. STILLEY: This has --

6 THE COURT: I have no idea where you're headed.

7 MR. STILLEY: I'm not headed down any forbidden  
8 path.

9 THE COURT: Right.

10 MR. STILLEY: This is another path.

11 THE COURT: For sure you're right. For sure. Make  
12 an effort. Take a couple of steps down the path, let me  
13 check you out.

14 BY MR. STILLEY:

15 Q. Isn't it true that Poly-Histine can have an adverse  
16 reaction mixed with other -- certain other drugs?

17 A. Yes, all drugs can do that.

18 Q. So wouldn't you want to know what other drugs the  
19 patient is taking before you made a prescription?

20 A. I knew what drugs she was taking.

21 Q. How would you know?

22 A. Because I asked.

23 Q. You would ask Ms. Wills?

24 A. I would ask -- yes.

25 Q. So you got your information about the other drugs that

1 were being taken from Ms. Wills?

2 A. Yes.

3 Q. What was your basis for believing that Betty Wills had  
4 the authority to make medical decisions for the students at  
5 Mountain Park?

6 A. I don't understand.

7 Q. Did you have any powers of attorney on file for the  
8 students at Mountain Park?

9 A. Yes, she had power of attorney on all students.

10 Q. That's what she told you, correct?

11 A. Oh, I saw them.

12 Q. Did you have copies?

13 A. Yes.

14 Q. You have copies in each file?

15 A. She sent -- she usually sent them -- she sent them  
16 every time that they brought a student in.

17 Q. Okay. So that went in the file, correct?

18 A. Well, I didn't keep them. But she had them on file at  
19 her school.

20 Q. So you're telling me that this power of attorney or  
21 this power was not kept as a part of your records?

22 A. No, this was an understanding that we had with Mountain  
23 Park.

24 Q. Well, isn't it important that you have authority before  
25 you treat a minor, somebody with a proper power --

1 MR. BRIGGS: Your Honor, we're going to object at  
2 this time.

3 THE COURT: Sustained. That's not part of the case.  
4 Move on from that.

5 BY MR. STILLEY:

6 Q. Now, I asked you about your role as -- in testifying in  
7 cases for other individuals. Have you been involved in  
8 litigation of your own or involving your practice?

9 A. No.

10 MR. STILLEY: Pass the witness.

11 THE COURT: Anything else?

12 MR. BRIGGS: Briefly, Judge, hopefully.

13 REDIRECT EXAMINATION

14 BY MR. BRIGGS:

15 Q. Dr. Gayle, to the best of your knowledge did the folks  
16 at Mountain Park, including Mrs. Wills and Mrs. Gerhardt, did  
17 they follow your advice to the best of your knowledge?

18 A. Yes.

19 Q. And was there anything that you saw or heard about to  
20 indicate that the girls at Mountain Park were not getting  
21 proper medical care?

22 A. I never had that feeling.

23 Q. Okay. Now, going back to this issue of the summer camp  
24 syndrome. That can apply to literally students going to  
25 summer camp, is that fair?

1 A. That's correct.

2 Q. Could it also apply to a student going off to college?

3 A. Yes.

4 Q. And I think would it also be fair to relate to people  
5 in the military?

6 A. Yes, that's correct.

7 MR. BRIGGS: That's all I have. Thank you.

8 THE COURT: Anything else, Mr. Stilley?

9 RECROSS-EXAMINATION

10 BY MR. STILLEY:

11 Q. You never heard of any summer camp that had the  
12 problems of the nature that Mountain Park had with  
13 amenorrhea, correct?

14 A. I don't think that I can honestly answer that. I mean,  
15 I know it's a problem in summer camp the same as it's a  
16 problem in the military. But as far as me giving you that  
17 there are 50 percent of the girls have amenorrhea at summer  
18 camp and 50 percent of them had amenorrhea at Mountain Park,  
19 I can't say that.

20 Q. Well, didn't you already tell this jury that amenorrhea  
21 at Mountain Park was worse than amenorrhea of females you  
22 visited in Vietnam?

23 A. No, I didn't say that. I said it was significant. It  
24 was a significant problem at Mountain Park, but I didn't say  
25 it was worse.

1 Q. You do not -- did you treat female patients in the  
2 military in Vietnam?

3 A. Yes.

4 Q. Did you have a basis for calculating what percentage of  
5 the female military personnel had amenorrhea?

6 A. No, I did not.

7 Q. So if you were going to make a comparison, it would  
8 simply have to be on the basis of your recollection --

9 A. Yes.

10 Q. -- as between the two?

11 A. That's correct.

12 Q. Did you get enough information with the treatment in  
13 Vietnam and in Mountain Park to make that comparison?

14 A. I saw more females from Mountain Park than I saw in the  
15 military in Vietnam.

16 Q. But we're talking percentages, correct?

17 A. That's what I'm telling you. I can't put a percentage  
18 on it because, you know, it was a significant problem in both  
19 places.

20 Q. But it sounds to me like what you're telling the jury  
21 is you don't have enough information from which that you can  
22 make a valid comparison between those two locations, isn't  
23 that true?

24 A. No, I can't. I'm saying that I saw more girls from  
25 Mountain Park, and so I saw more cases of amenorrhea from

1 Mountain Park than I did in the military, but I saw more  
2 girls from Mountain Park.

3 Q. Well, when you were in Vietnam, how many females did  
4 you have that were potentially your patients?

5 A. Probably on the neighborhood of five to a dozen, and  
6 they were mostly nurses.

7 Q. So there would be only a very few individuals, correct?

8 A. Yes.

9 Q. And they might rotate -- how long were you in Vietnam?

10 A. How long? One year.

11 MR. BRIGGS: Your Honor, I'm going to object. We've  
12 been through this a couple times already.

13 THE COURT: Fine. That's enough. You're arguing  
14 with the witness. That's enough of this.

15 MR. STILLEY: Your Honor.

16 THE COURT: No, that's the end of that. That is the  
17 end of that. You got anything else?

18 MR. STILLEY: That's all I got on this witness.

19 THE COURT: Fine. Sit down. Thank you, Doctor.  
20 You may step down. Call your next witness.

21 MR. BRIGGS: Your Honor, defendants call Sharon  
22 Goodman at this time.

23 SHARON GOODMAN,  
24 Having been first duly sworn, was examined and testified as  
25 follows:

DIRECT EXAMINATION

BY MR. BRIGGS:

Q. Please state your name for the record.

A. Sharon Goodman.

Q. Ms. Goodman, did you work at Mountain Park for a time?

A. Yes, sir.

Q. And when was that?

A. I was there from August of 2000 to December of 2000. I took a leave of absence. I came back the last few days of September in 2001, and worked until May of -- the end of May of 2004.

Q. And during the first time that you were at Mountain Park in 2000, were you a staff member?

A. Yes.

Q. And what was your job title at that time?

A. Just a monitor in the girls learning center.

Q. And what does a monitor do in the learning center?

A. A monitor assists the supervisor. In this kind of schooling it's an individual schooling where each student is doing something different, and they have little flags that they put up. And if a student wants to get academic help, the supervisor helps them. And if they want to go score their work or just various things, then they'll have to monitor. It's just like a teacher's helper.

Q. In that job those first few months at Mountain Park,

1 where did you live?

2 A. I lived in a room up on the same -- down the hall from  
3 where the girls were at in a room.

4 Q. And in the course of the job did you frequently  
5 actually sleep with the girls in the dorm?

6 A. No, I didn't actually sleep in the dorm, but I was  
7 right around the corner from them.

8 Q. Now, the second time when you went back to Mountain  
9 Park in late September 2001, what job duties did you assume  
10 at that time?

11 A. I started working as a supervisor in the learning  
12 center. And I worked in the kitchen. And just later on as  
13 time went on I picked up other duties. I did a lot of just  
14 paperwork. And I took the girls to the doctor a lot. And at  
15 times I went to town and got supplies. And at some point in  
16 time then I was helping with medicine call.

17 Q. When you first came back in 2001, were you doing the  
18 medicine call?

19 A. No, sir.

20 Q. About how long did it take before you started doing the  
21 medicine call?

22 A. I picked up medicine call, it was January, February of  
23 either 2002, 2003 somewhere. I can't remember which year.

24 Q. Fair enough. Now, we've already heard testimony with  
25 respect to how the medicine call worked at Mountain Park for



1 the girls. We heard that from Deborah Gerhardt. Were you  
2 here to hear Ms. Gerhardt's testimony?

3 A. Yes, sir.

4 Q. Okay. And her description of the medicine call, is  
5 that similar to your recollection of what medicine call was  
6 like?

7 A. Yes, sir.

8 Q. Now, you said that you did handle medicine call. When  
9 a student came with a complaint like a headache, did you give  
10 them something?

11 A. Yes, sir.

12 Q. And typically what would you give them?

13 A. A Tylenol or a generic Tylenol. Sometimes we had  
14 generic brands.

15 Q. And when a student asked about something like that, I  
16 mean, did you ever do any kind of what we sometimes call  
17 differential diagnosis where you kind of figure out or rule  
18 some other things out before you determine what may be best  
19 for them?

20 A. Sometimes. It would be more or less if they wore  
21 glasses or do you feel like your glasses might need to be  
22 changed. Or are you also having sinus problems, you know, is  
23 your headache in the front -- across the front of your head  
24 or is it in the back of your head. Are you having persistent  
25 headaches. Something of that nature.

1 Q. Okay. And did you also have, for example, something  
2 like Excedrin Migraine, an over-the-counter product you might  
3 be able to give based upon what they say?

4 A. Yes, but most of the time it was just Tylenol, generic  
5 Tylenol. Sometimes a parent would send something. I had one  
6 young lady who used to get a lot of migraine headaches, and  
7 mom just sent it. So when she came to get medicine, we had  
8 it in her little basket because the Tylenol really didn't  
9 help her.

10 Q. Was there always some sort of cold preparation  
11 available?

12 A. Yes, sir.

13 Q. Were there laxatives available?

14 A. At least a Metamucil, and sometimes we'd have, not  
15 Pepto-Bismal, I'm trying to think, like Milk of Magnesia.

16 Q. And, Ms. Goodman, if a student came to you and ever  
17 complained about missing her period, what would you ask or do  
18 in response?

19 A. Well, first of all, I'd ask, well, how long and if she  
20 was feeling pain with it, and then from there because of my  
21 position, I would -- Julie usually dealt with that. And I  
22 would either tell Julie myself or refer them to Julie,  
23 because for certain things it's good to have one person who  
24 is dealing with one thing because students a lot of times  
25 would have a tendency to tell one staff and then come back

1 and then tell another staff something different. And it was  
2 just good to have one person who dealt with a particular  
3 area. And so ultimately I would refer the girls to Julie  
4 because then she had the whole picture to deal with.

5 Q. When you gave out oral medication on medicine call, was  
6 that entered into a medicine log?

7 A. Yes, sir.

8 Q. And was that important -- an important part of the job,  
9 handling medicine call?

10 A. Yes, sir.

11 Q. And you took that very seriously, didn't you?

12 A. Yes, sir.

13 Q. If a student ever complained of a fever, would you tell  
14 Mrs. Gerhardt about it?

15 A. Well, first of all, I would take their temperature and  
16 make sure. A lot of girls would come up and say I feel like  
17 I have a temperature, and it's like, okay, let's check this  
18 out. And a lot of times they really didn't have a  
19 temperature. But if they did have a temperature, then just  
20 depending if it was like cold or whatever, they were put to  
21 bed, and of course I would notify the other staff.

22 Q. Mrs. Goodman, when you were at Mountain Park was Jamie  
23 Woods a student there?

24 A. Possibly in that -- the first four months I was there.  
25 But I wasn't around the students a lot then. Because we knew

1 when I went there that I was going to be taking a short term  
2 to leave, and so I guess I don't even really know. I mean,  
3 I'm not familiar with her at all.

4 Q. You don't have any recollection that she ever told you  
5 she was missing her period, do you?

6 A. No.

7 Q. Now, how about Shari Lueken, do you recognize Shari  
8 Lueken?

9 A. I recognize Shari Lueken.

10 Q. Did Ms. Lueken ever complain to you about missing her  
11 period?

12 A. Not that I recall. It would be so long ago, that if  
13 somebody did tell me, I mean, I would just take it up the  
14 hierarchy and pass on the information. And I know that I  
15 would do that.

16 Q. And Ms. Lueken -- well, Ms. Lueken didn't complain to  
17 you about being constipated, did she?

18 A. Again, there's just no way that -- you have so many  
19 girls when you're doing medicine call day after day after  
20 day. And if she did, it would have been dealt with at the  
21 time. And you give them prunes or prune juice or something,  
22 a stool softener or whatever. But I don't recall anything.  
23 There's just no way I can remember that.

24 Q. Now, looking to Exhibit BB. Ms. Goodman, have you seen  
25 this document before?

1 A. Yes, sir.

2 Q. And is this the medication log for Erika Teasley?

3 A. Yes, sir.

4 Q. Are your initials on any of the entries on the first  
5 page of Exhibit BB?

6 A. Yes, sir.

7 Q. When is the first indication on Exhibit BB that there  
8 is a complaint of tooth pain?

9 A. It would be on 3/15.

10 Q. March 15th. Was that 2003?

11 A. Yes, sir.

12 Q. And thereafter did Ms. Lueken -- excuse me, did  
13 Ms. Teasley come to you and complain after that date about  
14 having a toothache?

15 A. If she did, we would have given her medication, and it  
16 would have been put in the log.

17 Q. Now, with respect to Ms. Teasley, did she come to you  
18 three times a day complaining about tooth pain?

19 A. According to the log, no. If she did, it would have  
20 been in the log.

21 Q. And do you know if Ms. Teasley was ever taken to the  
22 dentist?

23 A. I only know because of us talking about that here.  
24 Personally I don't -- I didn't remember anything about that.

25 MR. BRIGGS: One minute, Your Honor. That's all I

1 have, Your Honor.

2 THE COURT: Cross-examination.

3 CROSS-EXAMINATION

4 BY MR. STILLEY:

5 Q. Is it fair to say you don't have a clear recollection  
6 of the actual administration of the medication represented in  
7 Erika Teasley's treatment log?

8 A. What I remember is from looking at the log, I can look  
9 back and see that I put my initials on there, so I know that  
10 she came in and went through medicine call, and I dealt with  
11 it.

12 Q. Are you basing your testimony on the initials that you  
13 see?

14 A. Well, those initials are mine in certain cases.

15 Q. Where it represents to be your initials, you're saying  
16 those are your initials; is that correct?

17 A. Yes, my initials are on those logs in many places, yes.

18 Q. Do you have actual personal recollection of the events  
19 that are represented by these log entries?

20 A. I don't understand what you're saying.

21 Q. Do you actually recall the administration of the  
22 medication on the occasions where it's logged that you gave  
23 out the medication?

24 A. The particular days, no. I remember standing day after  
25 day after day having lots of girls come through medicine

1 call. And every time they came through medicine call our  
2 procedure was to mark down why they came, give them the  
3 medicine, and put your initials.

4 Q. Long and short of it, you cannot testify from your  
5 personal knowledge that this log is accurate, can you?

6 MR. BRIGGS: Your Honor, I'm going to object.

7 A. Well, I know it's accurate.

8 MR. STILLEY: I'm asking her about her personal  
9 knowledge, her personal recollection.

10 THE COURT: What was your objection?

11 MR. BRIGGS: Your Honor, the phrase of the question,  
12 do you have a recollection as to whether it's accurate or  
13 not.

14 MR. STILLEY: Well, let me strike that, and I'll  
15 rephrase it.

16 BY MR. STILLEY:

17 Q. Do you have personal recollection of the actual events  
18 that are recorded on this log with your initials by them?

19 A. I don't have personal recollection. There's just too  
20 many girls that go through medicine call day after day after  
21 day, and it's just an everyday thing. And to remember one  
22 particular girl back at that time on a particular day, no, I  
23 can't remember that. I don't think anybody really can.

24 Q. Now, you were a monitor at Mountain Park?

25 A. A monitor at the beginning.

1 Q. And did you change positions? Did you get another  
2 position later?

3 A. Yes, when I came back I was a supervisor instead of a  
4 monitor.

5 Q. Okay. And a monitor is just an employee; is that  
6 correct?

7 A. Well, both are employees.

8 Q. Okay, but I'm just asking about the monitor. When you  
9 were a monitor, were you a volunteer?

10 A. No, sir.

11 Q. You were paid?

12 A. Yes, sir.

13 Q. Rate of pay?

14 A. Excuse me?

15 Q. What was your rate of pay?

16 A. I have no idea. I mean, I don't remember back then.

17 Q. Do you remember your rate of pay at any time?

18 MR. BRIGGS: Your Honor, objection. We've been  
19 through this. What's it relevant to?

20 MR. STILLEY: I'm just trying to establish her level  
21 in the hierarchy.

22 THE COURT: Well, me and the jury and everybody else  
23 want to know if we're going to finish this case within our  
24 lifetime. That's what we're trying to figure out. And  
25 you're just asking all kind of stuff, you know what I mean.



1 Please.

2 MR. STILLEY: Simple question, short answer.

3 THE COURT: Yeah, but you got all these simple  
4 questions.

5 MR. STILLEY: Just one page.

6 THE COURT: Sustained.

7 BY MR. STILLEY:

8 Q. What's your highest level of education?

9 A. I have an applied science degree in accounting and I  
10 have a two-year liberal arts degree.

11 Q. From where?

12 A. Spokane Community College in Spokane, Washington.

13 Q. Now, did I hear you testify on direct that you would  
14 sometimes rule out certain medications, you would rule  
15 certain medications out for a particular student?

16 A. No, I don't think I said that. Maybe I don't  
17 understand what you're asking me.

18 Q. Well, when a student came to you and they had a  
19 problem, let's say it's a cold.

20 A. Yes, sir.

21 Q. You had more than one medication for the cold, correct?

22 A. We could have at the time.

23 Q. There are a lot of cold medicines. Did you have more  
24 than one or just one?

25 A. It would just depend on -- we could have several

1 different kind of cold medicines, yes.

2 Q. Isn't it true that at all times that you were there,  
3 that there were several different cold medicines available?

4 A. Yes.

5 Q. And when a student asked for cold medicine, you didn't  
6 always just let the student have whatever medicine they  
7 thought was best for them, correct?

8 A. Sometimes we would -- some of the cold medicines made  
9 them sleepy, and so at night we might want to give one of  
10 those cold medicines. And maybe during the day, say, the  
11 Alka Seltzer Plus that didn't make them sleepy because they  
12 are in school. But -- and sometimes a student would come in  
13 and say may I have this one instead of that one because this  
14 one works better for me.

15 Q. Isn't it true that sometimes you had to go up the chain  
16 to your superiors to find out if a particular student could  
17 have a particular cold medicine?

18 A. If there was something in the log that said that they  
19 were allergic to something, I didn't have to go ask anybody,  
20 it was written there in their log, and I would know that  
21 particular medicine that I couldn't -- that particular cold  
22 medicine that I would give them, that I would give them  
23 another one.

24 Q. Well, let's assume that there was no statement in the  
25 log about an allergy to a medicine and a student is asking

1 for cold medicine, did you sometimes ask a superior if the  
2 student could have the medicine of their choice?

3 A. There was no need to.

4 Q. Are you telling this jury that you never did that? Can  
5 you look at the jury and tell the jury if you've ever done  
6 that while you worked at Mountain Park?

7 A. That I never did -- please restate it. I'm not  
8 understanding what you're trying to ask me.

9 Q. I'm trying to find out if you ever asked your superior,  
10 any of your superiors if a certain student could have a cold  
11 medicine that the student had requested?

12 A. I can't -- I never went to any superior that I can ever  
13 recall and ask them if they could have -- if they couldn't  
14 have something, it would be logged on the log. Otherwise it  
15 would be -- if it's during the day, we'll have a tendency to  
16 give them one that doesn't make them drowsy, where something  
17 at night possibly they would get a different one. I dealt  
18 with the students at the medicine log was just between me and  
19 the student.

20 Q. Did your superiors ever come to you -- I asked you  
21 about you going to your superiors. Did your superiors ever  
22 come to you and tell you not to allow a certain student to  
23 have a certain cold medication that the student asked for?

24 A. No.

25 Q. Did you ever -- did a student ever ask for a particular

1 cold medicine that was not forbidden to them based on your  
2 log, yet they were denied a medication?

3 A. No, sir.

4 Q. That never happened on your watch, is that what you're  
5 saying?

6 A. No, sir, it would be no need to.

7 Q. Did you testify on direct that there were certain  
8 ailments that were always referred up to higher level  
9 personnel?

10 A. Yes.

11 Q. What were those ailments?

12 A. If one of the girls did mention about this missing a  
13 period, if it was brought to me, I would refer it over to  
14 Julie so that we had one person dealing with it. If a  
15 student did come to me about something that we felt that  
16 there was a doctor visit needed, I would go to -- I would  
17 deal with the situation best I could then, and then I would  
18 talk to one of the superiors about, okay, this student needs  
19 a doctor's appointment.

20 Q. So are you telling us that Julie Gerhardt was the next  
21 person in command with respect to cessation of menses?

22 A. For me, yes.

23 Q. Were there -- was there another higher ranking person  
24 that other low level employees took their complaints to? Was  
25 Julie Gerhardt the only one of the monitors or low level

1 staff that you would take the complaints of cessation of  
2 menses to?

3 A. Monitor has nothing to do with medicine call.

4 Q. Okay. Well, there were more than one person on  
5 medicine call, correct?

6 A. Yes, sir.

7 Q. Actually Julie Gerhardt was on medicine call a good  
8 part of the time, true?

9 A. Yes.

10 Q. So when she was -- you were on medicine call together  
11 sometimes, correct?

12 A. Not together. Sometimes -- I would do more the morning  
13 medicine call, and, say, maybe she'd do the afternoon  
14 medicine call. Depending on how our duty, but generally I  
15 did the morning, generally she did the afternoon. We could  
16 swap different times, do the different duties if somebody  
17 needed me to do something, or sometimes I would take night  
18 medicine call. Some days I might do all three, just  
19 depending. But if there was something that came about, a  
20 particular thing that I thought maybe there was a doctor's  
21 visit needed, yes, I would take it up to the next person.

22 Q. Do you know where Julie Gerhardt was supposed to take  
23 the complaint to?

24 A. She would discuss it with Ms. Debbie.

25 Q. Ms. Debbie Gerhardt?

1 A. Yes, sir.

2 Q. Did you do anything else with respect to that  
3 complaint?

4 A. Once I took it up to the next -- up to Julie, because  
5 she was like the certain things would go for a central  
6 person, then it was in her hands.

7 Q. You didn't write that down in the logs, did you?

8 A. No, I wouldn't write that down in the log, no.

9 Q. To your knowledge nobody else wrote that in the logs  
10 either, did they?

11 A. There's no medication -- the medication log is to give  
12 medication. And there's no medication given, so why would  
13 anything be put in the log if you're not giving medication  
14 when it's a medication log.

15 Q. Was there any written record kept of the complaints of  
16 cessation of menses?

17 A. That I don't know.

18 Q. To your knowledge there was no record of the cessation  
19 of menses or complaints thereof, correct?

20 A. On my level, no.

21 MR. STILLEY: Pass the witness.

22 REDIRECT EXAMINATION

23 BY MR. BRIGGS:

24 Q. Ms. Goodman, let's take a look again at Exhibit BB.

25 A. Yes, sir.

1 Q. And with respect to looking at the exhibit --

2 Ms. Goodman, if you could, could you just point for The Court  
3 and the jury where some of your initials show up here on this  
4 medication log. Let's start off --

5 A. Line 1 is my initials.

6 Q. Okay.

7 A. And if we go down to --

8 Q. Is this one on March 21st?

9 A. Yeah, on the 21st.

10 Q. And then right above that?

11 A. And this scribble right there is mine. And down on the  
12 22nd and --

13 Q. Again on the 24th?

14 A. Yes, that's mine. And down on the -- on the 24th down  
15 here at 9 p.m., that's mine.

16 Q. Very good.

17 A. You'll have to push the thing up for me to see anymore.

18 Q. How about the entry at the bottom?

19 A. The last one, that scribble is mine.

20 Q. Very good.

21 MR. BRIGGS: Thank you.

22 THE COURT: Anything else?

23 MR. STILLEY: No, Your Honor, I'm through.

24 THE COURT: Thank you, Ms. Goodman. Call your next  
25 witness.

1 MR. BRIGGS: At this time, Your Honor, we call Sam  
2 Gerhardt to the stand. Judge, may I approach the witness for  
3 just a second?

4 THE COURT: Sure.

5 SAM GERHARDT,  
6 Having been first duly sworn, was examined and testified as  
7 follows:

8 DIRECT EXAMINATION

9 BY MR. BRIGGS:

10 Q. Would you please state your name for the record.

11 A. My name is Sam Gerhardt.

12 Q. And, sir, are you married to Debbie Gerhardt?

13 A. Yes, sir, for 30 wonderful years.

14 Q. I'm sorry?

15 A. I said for 30 wonderful years.

16 Q. Fantastic. Are you the son-in-law of Bob and Betty  
17 Wills?

18 A. Yes, sir, I am.

19 Q. Sir, did you graduate from college?

20 A. Yes, sir, I did.

21 Q. And let's see, can you briefly describe then your  
22 college or post secondary education?

23 A. Sure. I began my post secondary education at Tennessee  
24 Temple Bible College and University in Chattanooga. I took  
25 many hours there. I continued on as the Lord moved me about



1 to William Carey College in Hattiesburg, Mississippi,  
2 eventually finishing up a master's in Christian education  
3 with Carolina University of Theology.

4 Q. And while you were pursuing that master's degree, were  
5 you also working at Mountain Park?

6 A. Yes, sir, I was.

7 Q. As part of that master's program, did you have any  
8 projects that related to Mountain Park?

9 A. Yes, sir, I did.

10 Q. And what was that or those?

11 A. The parent, what we're calling the Parent/Student  
12 Handbook was basically my master's thesis.

13 Q. Okay. So you actually created the Parent/Student  
14 Handbook?

15 A. Yes, sir.

16 Q. And when was that completed?

17 A. In '98.

18 Q. In 1998?

19 A. Yes, sir.

20 Q. And just so I understand it, our recollection is that  
21 Tracey Ozuna attended Mountain Park in 1995 and 1996. Have  
22 you heard that in this trial?

23 A. Yes, sir, I've heard that in this trial.

24 Q. And have you also heard that Ms. Deboi attended  
25 Mountain Park in 1997?

1 A. Yes, sir.

2 Q. Now, sir, are you an ordained minister?

3 A. Yes, sir, I am.

4 Q. And with respect to the handbook, Mr. Gerhardt, it's  
5 called the Parent/Student Handbook, but when you created it,  
6 was there ever an intent to give the students the handbook?

7 A. No, sir, never was.

8 Q. Why not?

9 A. We had a history of oral tradition where the students  
10 learned the rules as they were passed down from student to  
11 student just like they would be in any family. Parents teach  
12 the older children, the older children teach the younger  
13 children. You know, you do that, mama is going to get you,  
14 boy. And that was the way we did the rules.

15 Q. And was that similar, I guess, also to the preaching  
16 and penitent kind of relationship?

17 A. Yes, sir, certainly so.

18 Q. Now, when did you first become involved in the ministry  
19 of Mountain Park?

20 A. In the spring of 1993.

21 Q. Can you tell the jury a little bit about what you did  
22 when you first got there?

23 A. Yes, sir, when I first came in there my primary  
24 responsibility was the academic portion of the school itself.  
25 Moved into the learning center, began to act as the principal

1 of the school, and just make sure the school was running  
2 smoothly and effectively.

3 Q. And at some point did you progress to additional  
4 positions?

5 A. Yes, sir, as the school progressed and began to do  
6 well, we earned a lot of school status with the ACE  
7 curriculum we were using, which made us one of the excellent  
8 schools in the ACE curriculum program. And as we excelled  
9 and did well with the school program, then my opportunities  
10 for ministry continued on to a point I became associate  
11 pastor, assistant pastor, and then eventually the pastor.

12 Q. Now, you just described the ACE program. Could you  
13 describe for The Court and jury what you're talking about.

14 A. Yes, sir. The Accelerated Christian Education program  
15 is a Christian school curriculum. It comes out of  
16 Lewisville, Texas. They may have changed headquarters in  
17 recent years. They are more than 3,000 Christians schools in  
18 the United States, more than 7,000 worldwide that use the  
19 curriculum. And it's an individually diagnosed self PACE  
20 Christian school curriculum that presents an excellent  
21 academic education from a Christ centered bible based point  
22 of view.

23 Q. Now, is this the program that uses PACES that we've  
24 heard about?

25 A. Yes, sir, it's the PACES, that acronym is a packet of

1 ACE curriculum.

2 Q. Can you describe what a PACE is?

3 A. PACE -- a PACE is a bite size unit of curriculum. For  
4 a student to complete one full year's worth of work, they had  
5 to do 12 PACES and complete those making at least an  
6 80 percent on each PACE. In other words, they had to have  
7 mastery of the material before they could move on that  
8 assured that they were getting a solid education. So an  
9 individual PACE then would be one 12th of an academic years  
10 worth of work.

11 Q. And when students were first enrolled at Mountain Park,  
12 did they have to take a test in relation to this ACE program?

13 A. Yes, sir, that's correct. The ACE provided us with a  
14 diagnostic test for math and science, also for -- or excuse  
15 me, for math and for English, two separate tests, and then a  
16 combined diagnostic test for social studies and science.

17 Q. Now, earlier in the trial we heard Jamie Woods  
18 complaining that she had to do some first or second grade  
19 math, some adding or subtracting when she started out. What  
20 do you have to say with respect to that. Can you explain how  
21 that relates to the program?

22 A. Yes, sir, certainly so. I can't speak that she was on  
23 a first or second grade level, that would be unusual,  
24 especially considering that she earned a college prep diploma  
25 by the time she graduated, but the diagnostic test would have

1 revealed that there was some remedial math work that needed  
2 to be done. That could have been at the basic skills level.  
3 That was very common for them to have some gaps in their  
4 basic skills. So before we would try to put them in algebra  
5 or geometry, the advanced math, we would make sure they had  
6 the basic skills down first, and then move them to the  
7 advanced curriculum as quickly as they demonstrated the  
8 aptitude and the attitude to do so.

9 Q. So with respect to that, they may start out at a  
10 remedial PACE, some more basic math; is that right?

11 A. Yes, sir, that is correct.

12 Q. And once they finish that PACE then, would they jump  
13 back up more to the more advanced math?

14 A. Yes, sir. Our goal was to get them work in the most  
15 difficult level of curriculum that they could be successful  
16 in as soon as possible. It was in our best interest as a  
17 school to have them working as high a level of curriculum as  
18 they could be successful in.

19 Q. Now, Brother Gerhardt in relation to that, can you  
20 describe what the ministry is at Mountain Park?

21 A. Oh, yes, sir, the ministry is to reach the heart of  
22 each individual student with the gospel of Jesus Christ. We  
23 believe that the root of the problem that they were having in  
24 their life was a spiritual problem, and that the solution to  
25 that was a personal relationship with Jesus. That was the

1 root to the core. And everything else that we did was to the  
2 ultimate end to seek to bring them to a saving knowledge of  
3 Christ, and then the desire to live a life directed by the  
4 principles applied from the Word of God.

5 Q. And in that pursuit, I guess did you have things like  
6 structure and work on their self image?

7 A. Oh, yes, sir. We certainly did. We wanted to provide  
8 a structured lifestyle. Again, without the structure, how do  
9 you build anything? It's like building a house, you got to  
10 have a structure to build a house. The sense of self worth,  
11 that God so loved the world, that God so loved each  
12 individual student who came to us, that God so loved each of  
13 us that he sent his son Jesus Christ to die on Calgary's  
14 cross for us that we might be born from above and have a  
15 relationship with him. Our self worth and their self worth  
16 was the price paid to redeem their soul.

17 Q. Very well. Now, when you started out at Mountain  
18 Park -- well, strike that. Were students enrolled in  
19 Mountain Park by their parents?

20 A. Yes, sir, always.

21 Q. And when students were enrolled at Mountain Park, was  
22 there an interview held with the parents of that student just  
23 prior to the time of enrollment?

24 A. Yes, sir. Initially when I first came, Brother Wills  
25 was doing that.

1 Q. So you weren't doing that when you first started out?

2 A. No, sir, I was not.

3 Q. And that typically happened on the same day as  
4 enrollment?

5 A. Yes, sir, it did typically.

6 Q. So that was the general practice?

7 A. Yes, sir, it was.

8 Q. And then did you ultimately take over that position of  
9 doing those interviews?

10 A. Yes, sir, that's correct.

11 Q. During those interviews did you discuss the policies  
12 and practices of Mountain Park generally?

13 A. Yes, sir, I did.

14 Q. Among them did you discuss the discipline policy with  
15 the parents?

16 A. Of course, very important part of it.

17 Q. And did you also discuss with the parents that students  
18 could possibly be paddled under that policy?

19 A. Yes, sir, we did.

20 Q. And would you enroll a student whose parents didn't  
21 want their student to be subject to the discipline policy?

22 A. No, sir. We would not. We required that both parents  
23 be in full agreement.

24 Q. Now, Brother Gerhardt, were you involved in the  
25 day-to-day supervision of the girls?

1 A. In the day-to-day supervision of the girls, I was not.

2 Q. However, if there was a serious health complaint raised  
3 with respect to any of the girls, would that be brought to  
4 your attention?

5 A. Yes, sir, I would be aware.

6 Q. For example, if a student had to go to the hospital for  
7 some reason, you would know about that?

8 A. Yes, sir, I would.

9 Q. Or you would be told about that?

10 A. Yes, sir, I would be informed.

11 Q. Are you familiar with the plaintiffs in this case?

12 A. Yes, sir, I am.

13 Q. And do you recognize them from when they were students  
14 at Mountain Park?

15 A. Yes, sir, I do.

16 Q. Did any of them ever complain to you about missing  
17 their period?

18 A. No, sir, never to me.

19 Q. Did any of the plaintiffs ever complain to you about  
20 being constipated?

21 A. No, sir, never.

22 Q. Did any of the plaintiffs ever complain to you about  
23 being groggy or lethargic?

24 A. No, sir, they never did.

25 Q. Did any of the plaintiffs ever complain to you about



1 having a toothache or tooth pain?

2 A. No, sir, they never did.

3 Q. And if a student had a health complaint, could they  
4 talk to you about it?

5 A. Certainly, they had access to me whenever they needed  
6 to.

7 Q. You were available to the students?

8 A. Yes, sir, I was.

9 Q. Just like Mrs. Wills said this morning, this was more  
10 than just a nine to five kind of job?

11 A. Oh, yes, sir, it was our life. It was who we were and  
12 what we did.

13 Q. Now, I think we've heard a comment during one of the  
14 plaintiff's testimonies yesterday that one of the girls said  
15 at one point that you had called the girls used tires. Did  
16 you ever call the girls that?

17 A. No, sir, I never called the girls used tires.

18 Q. Indeed, based upon what you testified about, would that  
19 even jive with what you've talked about as far as the mission  
20 of Mountain Park?

21 A. No, sir, it would not. I used analogies when trying to  
22 help the girls and preach to the girls and encourage them to  
23 be the very best and most that they could be, but used tires  
24 was never one of those analogies.

25 Q. Now, we've heard that the girls were not allowed to

1 keep journals while they were at Mountain Park?

2 A. Yes, sir, that is correct.

3 Q. So that was a practice at Mountain Park?

4 A. Yes, sir.

5 Q. Why did you keep -- excuse me, why didn't you permit  
6 the students to keep journals?

7 A. Again, in an effort to try to bring the girls out of  
8 the old life and into a new life, oftentimes journals or  
9 diaries were places where they would go back and talk about  
10 old boys and relationships that they had or drugs or other  
11 things that they had been involved in and how they couldn't  
12 wait to get back to those kind of things and so on. And so  
13 our desire was to remove them from that and put their focus  
14 on the opportunities of the future, not the failures that  
15 produced the difficulties of the past.

16 Q. Pardon me. Now, some of the students also claimed that  
17 their mail was read. Was that a practice or policy at  
18 Mountain Park?

19 A. Yes, sir. Again, we informed the parents when they  
20 enrolled that all mail would come in and out through the  
21 staff.

22 Q. And why did you read mail coming in and going out?

23 A. Well, first of all, you want to check the mail for  
24 contraband. You want to make sure, again, back to that  
25 safety and security issue of the student, that the things

1 that were coming in, nothing would come in harmful or  
2 detrimental to the students. You had to check those packages  
3 and check that mail for those kind of things. Otherwise it  
4 was to -- part of our role and responsibility was to assist  
5 and help the parent as well. So if the parent wrote  
6 something that may not be helpful to their student as they  
7 asked us to help, then we would be able to use that mail with  
8 the parent, with the family member, and give them some  
9 guidance and suggestion as to how to help them to do the job  
10 that they asked us to do.

11 Q. And in reading the mail, this was never done to prevent  
12 communication between the parents and students?

13 A. Oh, no, sir. The parents were encouraged to -- I would  
14 often make the statement to buy a postcard, "Welcome to  
15 Missouri" before you ever left the state and return back home  
16 and get it back in the mail to them right away.

17 Q. Now, did students ever have to rewrite their letters?

18 A. The only time that we would ever require a student to  
19 rewrite a letter, in other words, the outgoing mail.

20 Incoming mail I might send back with a note of instruction to  
21 a parent or family member. But the outgoing mail, the  
22 students' outgoing mail, it was always mailed out regardless.  
23 If a student was writing a letter and it was full of foul  
24 language and vulgarity and that kind of thing, I didn't want  
25 to read it, I didn't want the staff to read it. I didn't

1 want the parent to have to read that. So I would tell the  
2 student, you have to -- or designate a staff member to  
3 instruct the student, you need to write another letter, tell  
4 your parent what you want to, but leave the vulgarity and the  
5 foul language out. I would still mail both to parents. That  
6 was an instructive purpose for the student. But I would  
7 still mail out both letters.

8 Q. Now, we've also heard that students had limited phone  
9 calls, especially the plaintiffs. Can you describe what the  
10 practice was with respect to phones?

11 A. Yes, sir. Once the student was enrolled, they waited,  
12 the parents waited at least three weeks before they called  
13 the first time. And then they would call once every two  
14 weeks after that. That gave them an opportunity to talk to  
15 their student, to keep in touch with their student besides  
16 just the mail. But it also helped us to manage the time. We  
17 had a number of students.

18 Even when my children went to college, I noticed in  
19 their dorm room, please limit all calls to no more than ten  
20 minutes. So it was just kind of a logistic thing to help us.  
21 We only had so many lines. And there was a certain window  
22 during the day so it wouldn't interrupt with school and other  
23 activities. So there was a window of time during the day  
24 that parents would call. And we asked them to call during  
25 that time and to limit their calls to not more than ten

1 minutes.

2 MR. BRIGGS: That's all I have, Your Honor.

3 CROSS-EXAMINATION

4 BY MR. STILLEY:

5 Q. At this time you reside in Tennessee; is that correct?

6 A. Yes, sir, that's correct.

7 Q. And what is your current employment?

8 A. I work for a vacation cottage rental.

9 Q. And what's -- and your wife works there too, correct?

10 A. Yes, sir, that's correct.

11 Q. And that cottage was purchased with money earned by the  
12 operations --

13 MR. BRIGGS: Your Honor, I'm going to object at this  
14 point. What's the relevance?

15 THE COURT: Sustained.

16 MR. STILLEY: Judge, bias.

17 THE COURT: No.

18 MR. STILLEY: Interest.

19 THE COURT: No. No.

20 MR. STILLEY: Your Honor, may I approach?

21 THE COURT: No.

22 MR. STILLEY: I need to make a record on this.

23 THE COURT: No. I got so many records up here of  
24 yours, don't have any room for any more records.

25 BY MR. STILLEY:

1 Q. You told us that you were really acting against your  
2 financial interest in putting the kids in low grades; is that  
3 correct?

4 MR. BRIGGS: Your Honor, I'm going to object at this  
5 point.

6 THE COURT: I did not hear anything about financial  
7 interest. Sustained.

8 Q. Against your interest, change that to just interest.  
9 Is that correct?

10 A. I said it was against the best interest of the school  
11 to have a student working in -- it was in the best interest  
12 of the school to have the young people working in the most  
13 difficult level of material that they were capable of being  
14 successful in.

15 Q. And when you said "best interest of the school," what  
16 did you mean by that?

17 A. I certainly meant that for what we're producing, how  
18 we're reaching the children, the best interest of that child.  
19 If we're meeting the needs of the children by giving them the  
20 best education that we can possibly give them, then that  
21 helps everybody. That helps the student, that helps the  
22 school. It advances the student's sense of self worth. It  
23 puts them in a higher level of curriculum to prepare them for  
24 future opportunity. It just didn't make any sense to keep a  
25 student working remedial work if they were capable of working

1 more work, especially considering our goal of giving them  
2 real value and purpose and a hope and a vision for the  
3 future.

4 Q. Tracey Ozuna came to Mountain Park twice, correct?

5 A. Yes.

6 Q. The first time she completed the seventh grade PACES,  
7 correct?

8 A. I'm not looking at the record. I cannot say what's  
9 correct and what's not.

10 Q. You cannot dispute that she completed the seventh and  
11 entire eighth grade of PACES and started high school,  
12 correct?

13 A. I won't confirm or dispute. I'm not looking at the  
14 record. I don't know what the records are.

15 Q. Do you have any explanation of how that that could be  
16 and then she could be started back at sixth grade PACES when  
17 she returned?

18 A. If a student was given a diagnostic test on the return  
19 and she demonstrated that she had gaps in her learning even  
20 from the previous material that she had covered, we'd want to  
21 go back and review that material before we continued on, yes,  
22 sir.

23 Q. So you didn't even recognize your own achievement, the  
24 achievement that --

25 MR. BRIGGS: Your Honor, I'm going to object at this

1 point. I don't believe that Tracey Ozuna's actual studies  
2 came in in the case. I'm not really sure what this is  
3 relevant to.

4 MR. STILLEY: He testified about this on direct.

5 THE COURT: Well, you have a right to explore it to  
6 a limited degree. But you know what they say, you just can't  
7 beat a horse to death, you know. And we're still trying to  
8 finish this within our lifetimes. You know, you just jump  
9 ship on it. You're just gone. As they say, hit it and quit  
10 it.

11 BY MR. STILLEY:

12 Q. Isn't it true that on past occasion you took a young  
13 man who already had a high school diploma and put him in the  
14 fifth grade?

15 A. State that question again. I'm not sure I'm  
16 understanding what you're asking me.

17 Q. Isn't it true that in the past, just a few years ago,  
18 Mountain Park took a young man who was in the fifth grade --

19 MR. BRIGGS: Your Honor, objection. May we  
20 approach?

21 Q. -- who had a high school diploma and put him in the  
22 fifth grade?

23 MR. STILLEY: I need to complete my question.

24 THE COURT: Well, you completed it. Don't tackle  
25 him.



1 MR. STILLEY: Thank you, Judge. I needed that.

2 THE COURT: It looks like he was about to tackle you  
3 there. I got to watch him and keep an eye on him now.

4 MR. BRIGGS: Your Honor, we've been through this.

5 THE COURT: I don't think that there were many  
6 specific instances that were in direct examination. I'll  
7 give you some leeway. No, I'm going to sustain the objection  
8 as to this situation. If you want to deal with more of the  
9 situations relative to your plaintiffs here, okay.

10 MR. STILLEY: So I can't ask about other specific  
11 instances with respect to putting kids far below their level?

12 THE COURT: No, we aren't going to dwell on this.  
13 You asked him general questions about this, and I think you  
14 need to move on to your clients and relative to their  
15 situation if you have something there.

16 BY MR. STILLEY:

17 Q. In the declarations you made in this case, isn't it  
18 true that you said the monthly cost for a student was \$500?

19 MR. BRIGGS: I'll object, Your Honor, what's this  
20 relevant to?

21 THE COURT: He can answer.

22 A. I don't know that I've ever said the monthly cost was  
23 \$500.

24 Q. Would it refresh your recollection if you were able to  
25 take a look at the statement?

1 THE COURT: Listen, you're looking so long, I'm  
2 going to have to change my mind on my ruling.

3 MR. STILLEY: Judge, let me -- I understand. I'm  
4 not the only person that's done that in the past. Judge, let  
5 me do this. I'll come back to it. Wait a minute. I found  
6 it. I just found it.

7 MR. BRIGGS: Mr. Stilley, what exhibit are you  
8 referring to?

9 MR. STILLEY: It is docket entry 60. It is the  
10 declaration of Sam Gerhardt, and it is paragraph 21.

11 MR. BRIGGS: Your Honor, this is related to an issue  
12 that's already been dismissed from the lawsuit.

13 MR. STILLEY: It has nothing to do with that issue,  
14 it has something to do with another issue.

15 THE COURT: Right. Well, hurry up and go through  
16 this before I change my mind for real, okay. Hurry up.

17 MR. STILLEY: May I approach?

18 THE COURT: Go ahead.

19 BY MR. STILLEY:

20 A. Okay. I recall what that's discussing.

21 Q. And having reviewed your declaration, isn't it true  
22 that the cost of room and board at Mountain Park was \$500 per  
23 month?

24 A. As it relates to the enrollment of Erika Teasley, we  
25 did accept \$500 a month tuition for her. But that was well

1 less than half. We did that because we already -- we had a  
2 familiarity with the family, and therefore we were doing that  
3 as a favor to reach out and care for that girl because that  
4 family did not have the resources, or they demonstrated to us  
5 they did not have the resources to pay the full tuition. So  
6 that was all we charged them. I cannot say that that was all  
7 of our costs. That's all it cost them.

8 Q. But what you said was, isn't it true that what you said  
9 was, they paid 500 per month for Ms. Teasley's tuition, which  
10 was our cost for room and board.

11 A. If that's what is written down there. But, again, the  
12 reality, that was their cost. That was what I charged them.

13 Q. Well, you stated this under oath, correct?

14 A. Yes, I did.

15 Q. Was it true when you made it?

16 A. Our cost, their cost, the bottom line is that it was  
17 not our cost. Our cost was much greater than that. That was  
18 all it cost them.

19 MR. STILLEY: Your Honor, may I place this document  
20 on the ELMO? What I want to do is show the actual statement  
21 said "which was our cost".

22 THE COURT: You already said that. He didn't  
23 disagree with it. He explained it.

24 MR. STILLEY: Can I lay it on the ELMO?

25 THE COURT: There it is. We're not going to argue

1 about this. You go too far with these little things.  
2 Sustained. You don't need -- you may sit down over there,  
3 Mr. Briggs.

4 MR. BRIGGS: I promise I won't tackle anybody.

5 THE COURT: We're not going to go off on this  
6 tangent.

7 BY MR. STILLEY:

8 Q. At what point in time did you cease your employment at  
9 Mountain Park Boarding Academy?

10 A. Mountain Park no longer had students as of May of 2004.  
11 In the process of closing things down and wrapping things up,  
12 it's all kind of brackish water. I couldn't really tell you  
13 when I ceased to be an employee of Mountain Park. Sometime  
14 after we closed the school in May 2004.

15 Q. And how many students did you have to send either back  
16 to their parents or to another school?

17 MR. BRIGGS: Your Honor, object to relevance.

18 THE COURT: Sustained.

19 MR. STILLEY: Your Honor, can I explain?

20 THE COURT: No.

21 BY MR. STILLEY:

22 Q. Now, you told us about the oral tradition at Mountain  
23 Park; is that correct?

24 A. Yes, sir.

25 Q. And I believe you also told us that your master's

1 thesis involved drafting this document, correct?

2 A. That's correct.

3 Q. Isn't it true that you had a document that was just  
4 about the same as this document before the current version?

5 A. The document was being worked on and produced during my  
6 time as working on my master's. I don't recall if anything  
7 was published and distributed prior to that. If so, it would  
8 have been, again, the '97, '98 time period.

9 Q. Now, you arrived at Mountain Park in '93, correct?

10 A. Yes, sir, that's correct.

11 Q. Isn't it true there was a Parent/Student Handbook that  
12 was given to the parents at that point in time?

13 A. No, sir, that is not correct.

14 Q. Can you tell us then when the Parent/Student Handbook  
15 first started to be sent out to parents?

16 A. I thought I just answered that, '97, '98.

17 Q. Were -- before that time were the rules written down  
18 anywhere?

19 A. No, sir, not that I'm aware of.

20 Q. Since it was oral, what did you have to prevent the  
21 rules from changing from time to time?

22 A. To prevent the rules from changing from time to time?

23 Q. Right.

24 A. I don't know that the rules were prevented from  
25 changing from time to time.

1 Q. Was it possible then that you might have from time to  
2 time made up a rule as you went along?

3 A. Well, I'm not sure what you mean, made it up as we went  
4 along. Just like with any family or any Christian school at  
5 any place, the longer you go down the trail, circumstances,  
6 events, things take place that cause you to say, we need to  
7 adjust this rule or we need to make a new rule.

8 Q. Isn't it fair to say there are no written rules and  
9 none of the students could tell you that you had acted  
10 outside the bounds of the rules?

11 A. I guess I don't understand your question.

12 Q. Without written rules, how is a student going to hold  
13 you to following your own rules?

14 A. That wasn't the student's responsibility, that would  
15 have been the parents' responsibility.

16 Q. Well, wasn't it their responsibility, did they have any  
17 opportunity or right to have a consistent set of rules  
18 applied to them?

19 A. I believe they did have a consistent set of rules  
20 applied to them.

21 Q. How did they make sure it was a consistent and accurate  
22 set of rules that was applied to them?

23 A. Again, you know, I'm going back to who and what we  
24 were. We operated like a gigantic family. We -- how does my  
25 son or daughter know that the rules are going to apply to

1       them? In my family, I never had a written set of rules. For  
2       them to say, dad, you're doing something against your own  
3       rules. We operated as a big family. It would have been  
4       difficult. I don't understand what you're looking for or how  
5       we could have done what you're asking.

6       Q.     You said serious health complaints were brought to your  
7       attention, correct?

8       A.     I said -- say that again.

9       Q.     You said on direct that serious health complaints were  
10      brought to your attention; is that correct?

11      A.     If the staff had been given serious health complaints  
12      then, yes, sir, I believe they would have been brought to my  
13      attention.

14      Q.     Do you agree that cessation of menses for at least  
15      three months constitutes a serious health complaint?

16      A.     No, sir, I do not.

17      Q.     How long does the cessation of menses have to go on  
18      before you think it's a serious health complaint?

19      A.     All I can answer to that is, you know, as a man, girls'  
20      periods are just not something I want to know a whole lot  
21      about. I didn't want to know about my wife. I didn't want  
22      to know about my daughter. They are just certain things I  
23      didn't want to know about. I have to tell you that in my  
24      position as administrator of the school and pastor of the  
25      church, I had heard from my mother-in-law the things that the

1 doctor had told us through the years. I had heard from my  
2 wife the things that the doctor had told us through the  
3 years. But there were a couple occasions that I talked to  
4 Dr. Richard Gayle specifically myself and I asked him, same  
5 thing I'm saying now, Dr. Richard, I know what mom says, and  
6 I know what Deb says, but in my position I want to hear it  
7 directly from you. If a girl is missing her period, is there  
8 any reason that I should be alarmed or I should be concerned  
9 about that? And he assured me that there was not.

10 Q. Who assured you that there was not?

11 A. Dr. Richard Gayle.

12 Q. And did he say how long that the cessation of menses  
13 could go on without it being a problem?

14 A. No, sir, he did not.

15 Q. So I take it that you weren't aware that osteoporosis  
16 could result from cessation of menses?

17 A. I'm not aware of it now. I don't know anything about  
18 it. I'm a preacher. I don't know.

19 Q. You're not taking it upon yourself to find out about  
20 what you knew to be a serious problem at the institution,  
21 correct?

22 MR. BRIGGS: Your Honor, at this point I'm going to  
23 object.

24 THE COURT: Sustained. You're arguing with the  
25 witness.



1 MR. STILLEY: I'm asking questions.

2 THE COURT: No, you're arguing. Come up.

3 MR. STILLEY: Sure.

4 (The following proceedings were held at the bench  
5 and outside the hearing of the jury:)

6 THE COURT: You're like a rudderless ship. You've  
7 gone over this with Dr. Gayle. You keep going over this.  
8 Don't you understand that it's like crying wolf. Nobody is  
9 going to believe you, they are going to miss what the real  
10 points are. I know you are fervent about what you're trying  
11 to do, but, hey, you've hit this hard enough. You need to  
12 quit it.

13 MR. STILLEY: I'll move on.

14 THE COURT: Yeah, you don't understand. You're  
15 going to end up -- this jury is going to hate you so bad  
16 because you keep messing with these witnesses. This man who  
17 obviously would not be the person to get into this subject  
18 matter about. You did this with Dr. Gayle. You've done this  
19 with the other female witnesses. You need to let it go.

20 MR. STILLEY: I have to just ask him a last question  
21 on that subject.

22 THE COURT: You need to figure this out for the  
23 total picture. You know what I mean? You haven't figured  
24 this out. I don't know -- you know, you need the wakeup  
25 call. You know what I mean? You know, a paddle, swat, none

1 of that stuff would do you no good. We need to send you to  
2 them.

3 (The following proceedings continued within the  
4 hearing of the jury:)

5 BY MR. STILLEY:

6 Q. You testified on direct about the students having  
7 access to you to make complaints, correct?

8 A. Yes, sir.

9 Q. Isn't it true that you on occasions physically struck  
10 students who came to you with complaints?

11 MR. BRIGGS: Your Honor, I'm going to object.

12 MR. STILLEY: I'm asking the question.

13 MR. BRIGGS: He's talking about acts with other  
14 students. That's been excluded from the case.

15 MR. STILLEY: Your Honor, what he said, anybody  
16 could come up and make a complaint to him.

17 THE COURT: Very well. Go ahead.

18 A. Say that one more time.

19 Q. Isn't it true that on occasion, on more than one  
20 occasion students who came to you and made complaints were  
21 physically struck by you?

22 A. No, sir.

23 Q. That never happened?

24 A. That never happened.

25 Q. Now, you explained on direct why the journals and

1 diaries were not allowed, correct?

2 A. Yes, sir.

3 Q. Wouldn't it have been possible to satisfy the  
4 difficulties that you had with that by simply inspecting the  
5 journals and inspecting the diaries?

6 A. Mr. Stilley, we had a great deal to do. And to inspect  
7 diaries and inspect journals, I would expect that if we were  
8 searching through their diaries and journals, we'd probably  
9 be facing something with you somewhere else at some other  
10 time for messing with that. I don't know how to answer that.  
11 We had a great deal to do. And to go through journals and  
12 diaries just did not need to be added if we were going to do  
13 the job that we were asked to do.

14 Q. Isn't it also true that the students were prohibited  
15 from exchanging their contact information such as address and  
16 phone number?

17 A. Yes, sir, that was a typical practice.

18 Q. What was the reason for that?

19 A. We wanted the students to move on from their life at  
20 Mountain Park and make new friends and make new connections  
21 in their own local family, in their own local churches, and  
22 to continue on. We did not want the students to take the  
23 possibility of making negative contacts.

24 Q. Isn't it true also that cameras and other recording  
25 devices were prohibited?

1 A. No, sir, that's not true.

2 Q. That's not true?

3 A. No, sir.

4 Q. Were they allowed to have cameras?

5 A. Yes, sir.

6 Q. Were they allowed to -- cameras of any kind?

7 A. He did not allow Polaroid cameras.

8 Q. You allowed film cameras?

9 A. Yes, sir.

10 Q. And what about recording devices?

11 A. Yes, sir. Tape recorders, yes, sir.

12 Q. Those were allowed?

13 A. Yes, sir.

14 Q. If the recording devices were allowed, how would you  
15 prevent the student from making a diary on the recording  
16 device?

17 MR. BRIGGS: I'll object, Your Honor. I don't know  
18 what the relevance is, and that would call for speculation.

19 THE COURT: Sustained.

20 BY MR. STILLEY:

21 Q. Did you ever tell any students to rewrite their letters  
22 for any reason other than vulgarity?

23 A. No, sir.

24 Q. You sure about that?

25 A. Yes, sir.

1 MR. STILLEY: Pass the witness.

2 THE COURT: Anything else?

3 MR. BRIGGS: No, Your Honor.

4 THE COURT: Thank you. Mr. Gerhardt, thank you.

5 You may step down. Where are we?

6 MR. SCHWARTZ: May we approach, Your Honor?

7 THE COURT: Why don't you just tell me. Where are  
8 we with witnesses? We want to know. We might have to take a  
9 break here. You all are reminding me of some of these folks  
10 I play golf with. It takes so long to swing, I need to shave  
11 it took so long to swing. You know what I mean? Clothes  
12 went out of style, you took so long to swing. Go ahead.

13 MR. BRIGGS: Judge, we have three witnesses left.  
14 Our next one I think would be fairly brief. And the other  
15 two I don't think should take very long either. I can't --  
16 based on how cross has been going, I can't guarantee that  
17 we'll be done today though.

18 THE COURT: Why don't we take our break now and  
19 we'll see how far we can go. Why don't we return at five  
20 minutes after four. Recall the admonition.

21 (Court in recess from 3:47 p.m. until 4:07 p.m.)

22 THE COURT: Call your next witness.

23 MR. BRIGGS: Thank you, Your Honor. Defendants call  
24 Bob Wills to the stand.

25 BOB WILLS,

1 Having been first duly sworn, was examined and testified as  
2 follows:

3 DIRECT EXAMINATION

4 BY MR. BRIGGS:

5 Q. Please state your name.

6 A. Bob Wills.

7 Q. And, sir, are you an ordained minister?

8 A. I am.

9 Q. Did you frequently go by Brother Wills?

10 A. Yes, sir.

11 Q. Brother Wills, were you the founder of Mountain Park?

12 A. Yes, sir.

13 Q. And at some point in time did your son-in-law join the  
14 ministry?

15 A. He did.

16 Q. Okay. And I'm referring to Brother Gerhardt. Is that  
17 your understanding?

18 A. Yes.

19 Q. And at some point did you turn over the day-to-day  
20 operation of the school to Brother Gerhardt and his wife,  
21 your daughter Debbie?

22 A. I did.

23 Q. Now, we've already heard from Brother Gerhardt about  
24 the fact that he had enrollment interviews with the parents,  
25 in other words, when the parents enrolled their students he

1 met with them and they interviewed him. Have you heard about  
2 that?

3 A. I heard that, yes, sir.

4 Q. Now, did he adopt that practice from you?

5 A. Yes, sir.

6 Q. So when you founded Mountain Park and up until the time  
7 you turned over the day-to-day operation to him, did you meet  
8 with the parents when they enrolled students?

9 A. Yes, sir, I did.

10 Q. And was it your practice to do that around the time of  
11 their enrollment?

12 A. It was, yes, sir.

13 Q. Back in 1995 were you the one who would have done those  
14 interviews?

15 A. Yes, sir.

16 Q. And we heard Brother Gerhardt talk about how he  
17 explained the discipline policy and practices to the parents  
18 including the paddling. Did you hear that?

19 A. I did.

20 Q. Now, with respect to that, did you follow that same  
21 practice back in 1995?

22 A. Yes, sir.

23 Q. So when you met with the parents, you told the parents  
24 about the discipline practices and possible corrections  
25 including paddling, didn't you?

1 A. Yes, sir, I did.

2 Q. Now, we heard that Tracey Brazil, one of the plaintiffs  
3 in this case, now her name is Tracey Ozuna, that she was  
4 paddled or she said she was paddled in January 1996 after she  
5 was enrolled in 1995. Did you hear that testimony?

6 A. Yes, sir.

7 Q. Now, prior to Ms. Ozuna's enrollment, you would have  
8 discussed the discipline policy and the paddling with her  
9 parents?

10 A. Yes.

11 MR. BRIGGS: That's all I have, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. STILLEY:

14 Q. You realize an oral understanding is not enough to  
15 confer a legal right to discipline?

16 MR. BRIGGS: Your Honor --

17 THE COURT: Sustained. No legal questions. No  
18 legal questions.

19 Q. You told us about your name and also that you went by  
20 another name. Are there some other names that you go by as  
21 well?

22 A. Honey, Dr. Wills, Bobby.

23 Q. Do you sometimes your use your initials?

24 A. B.R., B.R. Wills.

25 MR. STILLEY: Pass the witness.



1 THE COURT: Anything else?

2 MR. BRIGGS: That's all I have, Your Honor.

3 THE COURT: Thank you, Mr. Wills. You may step  
4 down. Call your next witness.

5 MR. BRIGGS: Your Honor, we call Julie Gerhardt to  
6 the stand.

7 THE COURT: Very well.

8 JULIE GERHARDT,

9 Having been first duly sworn, was examined and testified as  
10 follows:

11 DIRECT EXAMINATION

12 BY MR. BRIGGS:

13 Q. Would you please state your name.

14 A. Julie Gerhardt.

15 Q. Ms. Gerhardt, what do you do for a living?

16 A. I stay at home with my kids, take care of my kids.

17 Q. And as we heard earlier, you have two children?

18 A. Yes.

19 Q. How old are they?

20 A. One and three.

21 Q. Ma'am, did you graduate from high school?

22 A. Yes.

23 Q. Where did you graduate from high school?

24 A. Mountain Park.

25 Q. So when did you attend Mountain Park as a student?

1 A. I attended '94 to '97.

2 Q. Okay. When did you graduate?

3 A. '97.

4 Q. And I guess I just assumed you did graduate from  
5 Mountain Park. Well, we already said that, didn't we?

6 A. Yes, sir.

7 Q. With respect to that, were you a student at Mountain  
8 Park around the same times or did your time overlap with  
9 Jessica Deboi and Tracey Ozuna?

10 A. Yes, sir, I believe they did.

11 Q. Now, since you went to Mountain Park, can you briefly  
12 describe what it was like for you as a new student when you  
13 enrolled?

14 A. Well, at first I didn't like it. I did not know that I  
15 was going to be going there, that my parents were going to  
16 send me there. So of course I didn't want to be there. I was  
17 shocked or -- or shocked that I was there. And so I didn't  
18 want to be there. I wanted to go home. And I felt that way  
19 for a little bit of time. But during that time that I felt  
20 that way, I was never mistreated. I got a good education. I  
21 ate very well. And any medical needs that I told a staff  
22 member about were taken care of.

23 Q. When you were a student, were you allowed to use the  
24 bathroom when you had to?

25 A. Yes, sir.

1 Q. When you were a student was there privacy in the  
2 bathrooms?

3 A. Yes, sir.

4 Q. And maybe could you describe the bathroom arrangement  
5 in the dormitory when you were a student?

6 A. We had stall doors or we had stalls in between the  
7 toilets at that time.

8 Q. Okay. Does that mean that they were divided by walls?

9 A. Yes, they were divided.

10 Q. And was there a time when doors were put on them?

11 A. Yes, it was not long after I had arrived there that the  
12 doors were put on.

13 Q. Okay. And when did you arrive there?

14 A. '94.

15 Q. 1994?

16 A. Yes.

17 Q. When you were first enrolled did you miss your period  
18 for a time?

19 A. Yes, I did.

20 Q. Did it ultimately come back?

21 A. Yes, it did. Actually I never even -- I didn't have it  
22 for quite awhile. I never even really thought about it. I  
23 mean, it was just -- you know, girls would talk about it and  
24 they'd say that, you know, they never had -- they didn't have  
25 it for a little bit of time and it came back. So, I mean, I

1 can remember being in the dorm and we'd be talking about not  
2 being on our period or not -- or having a period and  
3 complaining that, you know, I'm on my period, you know, and  
4 we would complain that we were on our period. We were  
5 teenagers; we did not want a period.

6 Q. Would it be fair to say you were kind of happy for a  
7 spell that you weren't having one?

8 A. Yes.

9 Q. Now, could you briefly describe a typical day at  
10 Mountain Park? When you were a student what time did you get  
11 up?

12 A. I believe it was six o'clock. I know that we were not  
13 up any earlier than 5:15, so maybe between 5:15, six o'clock,  
14 it may have depended.

15 Q. And did that change from time to time?

16 A. Yes.

17 Q. And what time did you go to bed at night?

18 A. Nine o'clock. Unless it was maybe a special occasion,  
19 like we would maybe New Year's Eve stay up until midnight  
20 because it was New Year's Day, something like that. But it  
21 was very rare.

22 Q. And if you could, what else did you do in the course of  
23 an ordinary day as a student?

24 A. The whole schedule of what we did from the time when I  
25 woke up until the time I went to bed or --

1 Q. Generally what were the major activities that you did  
2 during the day? You spent some time in school?

3 A. Yes.

4 Q. You also -- did you get three square meals a day?

5 A. Yes, I did.

6 Q. Did they give you enough to eat?

7 A. Plenty.

8 Q. When you first arrived at Mountain Park did you gain  
9 some weight?

10 A. Yes, I did.

11 Q. Okay. But over time did that kind of level off?

12 A. Yes, it did.

13 Q. Were you able to get seconds when you wanted to?

14 A. Yes.

15 Q. Can you briefly describe for the judge and the jury  
16 what, if anything, Mountain Park as a student, what that did  
17 in your life and for your life?

18 A. Well, for me it was a life changing experience,  
19 considering the background that I had come from before I  
20 attended Mountain Park. It was there that I had learned  
21 about Jesus and that he died on the cross to save me from my  
22 sins, and that he could take the way that I had been before  
23 and completely change my life. It's there I had gotten  
24 saved. In my heart I knew that there was a heaven or a hell,  
25 and I knew that some day I would die and go to one of those

1 places, and I wanted to go to heaven and be with Jesus. And  
2 so that was a life changing experience. It was there at  
3 Mountain Park through the teaching and preachings there that  
4 I had -- that I had -- that God had changed my direction of  
5 how I used to be.

6 Q. So Mountain Park helped change the direction in your  
7 life?

8 A. Yes.

9 Q. While you were a student at Mountain Park were you  
10 belittled or demeaned by the staff?

11 A. Never.

12 Q. After you graduated, what did you do?

13 A. I stayed on for a few months. I had to return home --  
14 my mother had an illness and passed away, and then I returned  
15 back to Mountain Park for a few months. And then I went to  
16 college for a few years and then returned back to Mountain  
17 Park.

18 Q. When you first became a staff member, after you  
19 graduated, where -- I mean, did you stay with the girls in  
20 the dorm or someplace else on campus?

21 A. I stayed with the girls in the dorm.

22 Q. Would it be fair to say since you stayed on as staff  
23 that you liked it there as a student?

24 A. Yes.

25 Q. Mrs. Gerhardt, when you were you a student did you ever

1 feel groggy or lethargic?

2 A. No, never, not one time.

3 Q. When you first went on staff, what were your job  
4 duties?

5 A. I was a monitor in school. And then outside of school  
6 I was just back in the dorm with the girls.

7 Q. Now, you have a last name Gerhardt as well. Can you  
8 describe the relationship you have to some of the other  
9 defendants?

10 A. I married Bo Gerhardt, which is Sam and Debbie  
11 Gerhardt's son.

12 Q. And did you two begin courting when you were in  
13 college?

14 A. It was the last -- it was our senior year, the end of  
15 our senior year.

16 Q. When you returned to Mountain Park after college did  
17 you have the same job duties?

18 A. No, I did not.

19 Q. What were your job duties when you came back?

20 A. I was a supervisor in the school. Then I was back in  
21 the dorm with the students. I did PE with the girls. And  
22 then a little later I did medicine call.

23 Q. When do you think you started doing medicine call?

24 A. '01 -- '01, '02. '01, I believe, but I don't know for  
25 sure.

1 Q. Now, Mrs. Gerhardt, I want to show you part of Exhibit  
2 V. This was Shari Lueken's medication log. Is this document  
3 familiar to you?

4 A. I'm sorry?

5 Q. Is this document familiar to you?

6 A. Yes, sir.

7 Q. I want to refer you to the entry that's second from the  
8 top. Do you see that?

9 A. Yes.

10 Q. What's the date on that entry?

11 A. 7/3. Is that '00? Yeah, '00.

12 Q. And looking across the right-hand side, whose initials  
13 are those?

14 A. Mine.

15 Q. And what's the medication that's being given?

16 A. Pin-X.

17 Q. Pin-X. Are you familiar with Pin-X?

18 A. Yes, it was --

19 Q. Can you tell The Court what the Pin-X is?

20 A. It was a worm medicine.

21 Q. Did you have to take worm medicine when you were first  
22 enrolled at Mountain Park?

23 A. Yes, I was -- yes, I did.

24 Q. Now, with respect to the Pin-X, it indicates that you  
25 gave it. At this point in time in July 2000, how long



1 after -- how long after -- how long from the time that you  
2 returned from college was this entry made?

3 A. Three months.

4 Q. Okay. And had you been giving out Pin-X to students at  
5 that point in time? In other words, was this a new practice  
6 for you to give the Pin-X?

7 A. Yes.

8 Q. And were you doing medicine call at that point in time?

9 A. Yes.

10 Q. You were. I thought you testified earlier that you  
11 started in 2001?

12 A. I don't know when I started, exactly when I started.

13 Q. And was Pin-X given in medicine call?

14 A. No.

15 Q. So a student didn't line up and ask for the Pin-X,  
16 correct?

17 A. No.

18 Q. Did you just take it upon yourself to write the Pin-X  
19 into the medication log?

20 A. Yes, I did.

21 Q. Did you know at the time that any notes regarding Pin-X  
22 would have been made someplace other than the medication log?

23 A. No.

24 Q. Did you subsequently learn that?

25 A. Yes.

1 Q. Now, we've already heard a lot of testimony about  
2 medicine call, and I'm sure The Court doesn't need to hear it  
3 all again. But when you started doing medicine call, it was  
4 your practice to record any oral medication that was given to  
5 a student into their medication log, correct?

6 A. Yes.

7 Q. Now, we've also heard that at least Ms. Goodman said  
8 that if a student had come to her complaining she had missed  
9 her period, she would refer that student to you. Did you  
10 hear that testimony?

11 A. Yes, I did.

12 Q. How often did you get complaints from students that  
13 they were missing their period?

14 A. Not very often.

15 Q. And if you did get a complaint from a student that she  
16 was missing her period, what would you do in response?

17 A. Ask her how long it had been, and if it hadn't been but  
18 just two or three months, I would tell her to come back to  
19 me, you know, next few months and to let me know that. But I  
20 don't ever recall anybody really ever coming back and telling  
21 me at a later time that they had missed it.

22 Q. Okay. Ms. Gerhardt, can you say, did any of the  
23 plaintiffs sitting at the plaintiffs' table, did any of them  
24 complain to you they were missing their period?

25 A. I don't believe they did.

1 Q. And as you sit here right now, can you recall, did any  
2 of the plaintiffs complain to you they were constipated?

3 A. Did any of them complain to me that -- no. No, not  
4 that I recall. I mean, maybe so, but I don't know for sure.

5 Q. You don't have a recollection?

6 A. I do not.

7 Q. If a student had come to you complaining of  
8 constipation, what would you do?

9 A. Tell them to go get some prunes or something -- I'd  
10 tell them to go get prunes, and if that didn't work to come  
11 back to medicine call and I'd give them something else.

12 Q. Could a student just get prunes, or what did they have  
13 to do to get prunes?

14 A. What do you mean?

15 Q. Did they have to ask somebody else or could they just  
16 get them?

17 A. We -- they could get them. They could just ask and  
18 say, you know, Ms. Julie told me that I could have some  
19 prunes, and then somebody would give it to them.

20 Q. Ms. Gerhardt, I'd like to show you what's been marked,  
21 previously marked as Defendants' Exhibit BB. Is that a  
22 document familiar to you?

23 A. Yes, it is.

24 Q. And if we look on this document, this is Erika  
25 Teasley's medication log, is it not?

1 A. Yes, it is.

2 Q. With respect to this, do you see your initials on some  
3 of the entries in this log?

4 A. Yes, I do.

5 Q. And just for the record, this is one of a two-page  
6 document. With respect to this, can you see where the first  
7 date that a toothache complaint is raised in the medication  
8 log?

9 A. On March 15th.

10 Q. And prior to that she has some complaints of headache.  
11 If she had complained of a toothache, would that have been  
12 written into the log?

13 A. Yes, it would have been.

14 Q. Now, Ms. Gerhardt, we've heard from Ms. Teasley that  
15 she was complaining three times a day, every medicine call  
16 about the pain she was having in her tooth. Do you have a  
17 recollection of that?

18 A. No, I do not. I would have given her medicine for it,  
19 and I would have logged it down.

20 Q. And do the records reflect that she complained of a  
21 toothache three times a day?

22 A. No.

23 Q. And you made entries into these records in the ordinary  
24 course of your business, didn't you?

25 A. I'm sorry?

1 Q. Did you put entries into this medication log in the  
2 ordinary part of your duties?

3 A. Yes.

4 Q. And that was an important thing to do, wasn't it?

5 A. Yes, it was.

6 Q. Now, it seems as if maybe the plaintiffs are claiming  
7 that you fabricated this log with respect to these entries.  
8 Is that possible?

9 A. No, it's -- no, it's not possible.

10 Q. And why isn't it possible?

11 A. Because that's my signature. And it's just not  
12 possible. We wrote it down what was -- you know, what was  
13 wrong with them and signed it.

14 Q. And how many students would show up in a typical  
15 medicine call?

16 A. No telling. How many would show up? Several.

17 Q. Okay. I mean, would it be more than a dozen, say?

18 A. At times. Also depended on what time of day it was  
19 also.

20 Q. So you had to go through all those students' logs for  
21 every time you gave them medication, correct?

22 A. Yes, I did.

23 Q. Ms. Gerhardt, while you were at Mountain Park as a  
24 student did you ever see a student paddled?

25 A. No, I never did.

1 Q. Even as staff member did you ever see a student  
2 paddled?

3 A. No, I never did.

4 MR. BRIGGS: A moment to confer, Your Honor. That's  
5 all I have.

6 THE COURT: Very well. Cross-examination.

7 CROSS-EXAMINATION

8 BY MR. STILLEY:

9 Q. Is it fair to say that at Mountain Park some girls were  
10 treated quite differently than others?

11 A. We were treated the same.

12 Q. You sure about that?

13 A. Well, I know experience as an orientation guide if I --  
14 I actually -- there was more required of being an orientation  
15 guide than there was of a single student, so I had a lot of  
16 responsibility, so I maybe would get more corrected than a  
17 single student or a new student.

18 Q. What I'm trying --

19 A. So I don't -- can you --

20 Q. What I'm trying to get at, is it a possibility that one  
21 student might have a good experience at Mountain Park while  
22 another student would not have the same experience?

23 MR. BRIGGS: I'll object to that, that would call  
24 for speculation, Your Honor.

25 THE COURT: Sustained.

1 BY MR. STILLEY:

2 Q. Did you know Felicia Jones?

3 MR. BRIGGS: Your Honor, I'm going to object at this  
4 point. May we approach? This is a claim -- it's not related  
5 to any of the named plaintiffs.

6 MR. STILLEY: Can we approach?

7 THE COURT: Well, come on.

8 (The following proceedings were held at the bench  
9 and outside the hearing of the jury:)

10 MR. BRIGGS: Your Honor, the basis for the objection  
11 is that in the complaint one of the plaintiffs claims that  
12 she had to give Felicia Jones a cold shower or something to  
13 that extent. With respect to that, Your Honor, you've  
14 already ruled that incidents with other students are  
15 excluded.

16 THE COURT: Yeah. I mean, you -- you seem to ask  
17 the wrong questions. You ask her -- she said she had a good  
18 experience, so you have a little leeway there. You know, I  
19 mean, you want to go to the possibility. And that's kind of  
20 broad. Why don't you ask her if she's aware of any other  
21 students having bad experiences.

22 MR. STILLEY: Sure, I'll do that.

23 THE COURT: Go straight to the question.

24 MR. STILLEY: I'll just jump right on it.

25 THE COURT: I don't want to go into detail about any

1 kind of individual's bad experience. Because I don't know  
2 where you're going with that, okay.

3 MR. STILLEY: Sure.

4 (The following proceedings continued within the  
5 hearing of the jury:)

6 BY MR. STILLEY:

7 Q. Were you aware of any girls that had bad experiences at  
8 Mountain Park?

9 A. Was I aware of any girls that had bad experiences?

10 Q. I beg your pardon?

11 A. As in what, they didn't want to be there or -- no, I  
12 mean -- can you rephrase the question so I can understand a  
13 little better?

14 Q. Well, what I'm asking is if any of the students -- if  
15 you knew of any students at Mountain Park who had a bad  
16 experience there, something that would be considered  
17 traumatic to them.

18 A. I don't know. I'm not them. I don't know what they --  
19 how they felt.

20 Q. Basically you just know about your experience, correct?

21 A. I know of other -- I do know of other girls who, yes,  
22 they left the school, they wanted to stay and help other  
23 girls or --

24 Q. You came in '94, correct?

25 A. Yes.



1 Q. Do you know when the doors were put on the girls'  
2 bathrooms?

3 A. I'm sorry?

4 Q. Do you know when the doors were put on the stalls in  
5 the girls' bathrooms?

6 A. Not long after I got there the doors were put on.

7 Q. So are you saying the doors were put on in 1994?

8 A. The doors, yes.

9 Q. Are you sure about that?

10 A. Maybe the beginning of '05. I got there the end of --  
11 or, sorry, I got there the end of '94, so it may have been  
12 possible the very beginning of '95 that they could have been  
13 put on. I just remember it was not long, I did not go very  
14 long with not having a stall door.

15 Q. And were the stall doors put on all the girls'  
16 bathrooms?

17 A. Yes.

18 Q. You said you did miss your period at Mountain Park?

19 A. Yes, I did.

20 Q. About how many times?

21 A. How many times did I miss my period?

22 Q. About how many months?

23 A. Nine.

24 Q. Did you -- you didn't have any other explanation other  
25 than stress for that missing of periods, did you?

1 A. I don't even remember it's stress. I mean --

2 Q. Well, do you recall any reason for having missed a  
3 period?

4 A. I'm sorry?

5 Q. Do you recall having any reason for missing your  
6 periods for nine months?

7 A. I don't know why I did. I wasn't -- I just -- you  
8 know, I would hear maybe other girls say that they hadn't had  
9 theirs either, and it was just something that they ended up  
10 getting, and I ended up getting mine too. So it wasn't -- to  
11 me it wasn't -- you know, I ended up getting it, so --

12 Q. You never had a problem with your periods before  
13 Mountain Park, did you?

14 A. No.

15 Q. And after you got out as a student, did you ever have  
16 problems with your period then?

17 A. No.

18 Q. So when you were working as staff at Mountain Park you  
19 didn't have problem with your periods then, correct?

20 A. No.

21 Q. When you got food, did you need permission for seconds?

22 A. Did I need permission?

23 Q. Did the students need to get permission in order to get  
24 seconds of food?

25 A. No. They would -- if we had food left over, one of the

1 kitchen workers would come and say, seconds, and girls would  
2 line up to get seconds if they wanted it.

3 Q. Now, you told the jury about your experience of  
4 conversion, becoming Christian, correct?

5 A. Yes.

6 Q. Now, being Christian doesn't mean you're perfect; is  
7 that correct?

8 A. That's correct.

9 Q. And even after you've been converted, there's been some  
10 things in your life that you're not proud of, correct?

11 A. That's correct.

12 Q. And some of them are pretty serious, correct?

13 MR. BRIGGS: Your Honor, this is outside the scope  
14 of direct.

15 MR. STILLEY: Let me ask one other question.

16 THE COURT: Try it again.

17 BY MR. STILLEY:

18 Q. Your family and folks, the people at Mountain Park,  
19 despite the knowledge of these things have been very patient  
20 and kind to you, correct?

21 MR. BRIGGS: I'll object, Your Honor, vague and  
22 relevance.

23 MR. STILLEY: Treatment of students, Judge.

24 THE COURT: Well, I just don't know where you're  
25 going. I mean, the witness said they were saved. They were

1 Christian. So, I mean, I don't know -- do you want to show  
2 something relative to this case or something relative to  
3 these plaintiffs here?

4 MR. STILLEY: What I'm trying to show relative to  
5 these defendants, I'm trying to show something relative to  
6 the defendants. And what I'm trying to show is that the  
7 defendants were very patient and very kind with her, and they  
8 treated her as a --

9 THE COURT: Why don't you perhaps ask how some of  
10 these individuals treated her if that's what you want to ask.

11 BY MR. STILLEY:

12 Q. Is it fair to say then that there were some incidents  
13 in your life that you're not proud of that the Gerhardts and  
14 the Wills became aware of?

15 MR. BRIGGS: Your Honor, this is also prejudicial.

16 THE COURT: Sustained.

17 Q. Let me try this. Isn't it fair that the Wills and the  
18 Gerhardts have been especially and particularly kind and  
19 patient to you particularly after you came back to work as  
20 staff?

21 MR. BRIGGS: Your Honor, same objection.

22 THE COURT: Sustained.

23 Q. Now, did you get worm medicine when you arrived?

24 A. I'm sorry?

25 Q. Did you get worm medicine?

1 A. Yes, I did.

2 Q. Was it liquid form?

3 A. Yes, it was.

4 Q. And did you get it again in two weeks after you got  
5 there?

6 A. I got it again. I don't recall exactly how long after.  
7 A week, two weeks, I don't know. I didn't count the days.

8 Q. On direct did you testify something about a change in  
9 the practice concerning giving the girls worm medicine?

10 A. Sorry, I can't hear you very well. You're not talking  
11 very loud.

12 Q. Did you testify on direct about a change in the  
13 practice of giving the girls worm medicine at some point in  
14 time?

15 A. There was never -- I don't recall a change in practice.  
16 It was just -- I was coming on as a married staff member, so  
17 I was learning how to -- you know, I was new at doing  
18 medicine. Is that what you --

19 Q. What year are we talking about?

20 A. I came on as a married staff member in 2000.

21 Q. Okay. Is that when the change took place?

22 MR. BRIGGS: Your Honor, I'm going to object. I  
23 don't think she's testified there has been a change.

24 THE COURT: Why don't you -- you've never answered  
25 the question was there a change.

1 BY MR. STILLEY:

2 Q. Was there a change in the practice of administration of  
3 worm medicine that you became aware of during your employment  
4 at Mountain Park -- well, from the time that you came as a  
5 student until the end of your employment at Mountain Park,  
6 did you at any time become aware of the change in the  
7 administration of worm medicine to the students?

8 A. There was never a change. When a student came in they  
9 were -- they got worm medicine. I received worm medicine  
10 when I was there and it continued on through the whole time.  
11 A student received worm medicine.

12 Q. So to your knowledge would it have been the same the  
13 entire period, from 1994 until you quit?

14 A. Yes, it would be the same.

15 Q. And when did you quit?

16 A. When Mountain Park closed the doors.

17 Q. You told us a little bit about some of the medication  
18 logs. When you looked at those logs were you basing your  
19 testimony on what you saw on the log or on your personal  
20 recollection of what actually happened?

21 A. When I looked at these?

22 Q. Correct.

23 A. And I did what? I'm sorry.

24 Q. I'm trying to find out if you can actually remember the  
25 incident of giving medicine to any of the named plaintiffs?

1 A. Not particularly. If I saw Aleve on there I may not  
2 have remembered giving that student Aleve because they had  
3 cramps. I don't remember that day that they specifically had  
4 cramps.

5 Q. Do you remember with -- did administration of  
6 medication stand out enough that you would actually remember  
7 that, have personal recollection of it?

8 A. If a student was coming continually about a problem,  
9 then, yes, I would have recollection of it, and it would be  
10 taken to Miss Gerhardt and we would try to get her in to a  
11 doctor or dentist or whatever.

12 Q. Was there -- were there enough students that you had a  
13 prune and cranberry juice call in the mornings?

14 A. No, not when I was a staff member.

15 Q. Was there a prune cranberry juice call at some other  
16 time while you were a staff member?

17 A. At some other time? I don't ever remember as a staff  
18 member there being a prune and juice call. I just told a  
19 student if they needed prunes just to go get them. There was  
20 no prune call. I mean, they would just ask to get prunes,  
21 and they got them.

22 MR. STILLEY: Pass the witness.

23 MR. BRIGGS: Nothing further, Your Honor.

24 THE COURT: Thank you, Ms. Gerhardt. Call your next  
25 witness.

1 MR. BRIGGS: Your Honor, we call Andrea Hill.

2 ANDREA HILL,

3 Having been first duly sworn, was examined and testified as  
4 follows:

5 DIRECT EXAMINATION

6 BY MR. BRIGGS:

7 Q. Please state your name.

8 A. Andrea Hill.

9 Q. Ms. Hill, were you on staff at Mountain Park at some  
10 point in time?

11 A. Staff?

12 Q. Yes.

13 A. Yes.

14 Q. Now, during that time that you were a staff member, I  
15 have to ask you this right out of the box, this is a really  
16 important question. One of the plaintiffs, Jamie Woods, has  
17 alleged that you as a student pushed her down to the ground.  
18 Now, Ms. Hill, did you ever do that?

19 A. No, I did not.

20 Q. And would you ever do that?

21 A. No.

22 Q. Now, in addition to being a staff member, were you also  
23 a student at Mountain Park?

24 A. Yes, I was.

25 Q. Okay. And when were you enrolled at Mountain Park?



1 A. May 17th of 1994.

2 Q. And for how long were you a student?

3 A. Three years.

4 Q. And did you graduate?

5 A. Yes, I did.

6 Q. When did you graduate?

7 A. May 23rd of '97.

8 Q. And, Ms. Hill, did Mountain Park help you in your life?

9 A. Yes, it did.

10 Q. How?

11 A. I've -- the structure there, the job that I have now,  
12 if I didn't learn the structure and learn how to work there,  
13 I wouldn't be a good worker today, you know. I wouldn't  
14 be -- my life would be completely different. Who knows how  
15 my life would be right now if I didn't go to Mountain Park as  
16 a student.

17 Q. Did you enjoy your experience at Mountain Park?

18 A. Not at first, but then again, usually not many enjoyed  
19 it at first because it's very different from what you're used  
20 to. But over time I, you know, became a Christian, developed  
21 some strong friendships with the students. You know, the  
22 staff became like family to me when I became on staff. So, I  
23 mean, there's a lot of benefits.

24 Q. For how long were you on staff at Mountain Park?

25 A. A very long time. From May 23rd of '97 until it closed

1 down.

2 Q. And what were your job duties when you worked on staff  
3 at Mountain Park?

4 A. Just about anything and everything. You mean from the  
5 beginning or --

6 Q. Well, for the sake of time, why don't we narrow this  
7 down a little bit. Ms. Hill, did you work in the learning  
8 center?

9 A. I worked in the computer room.

10 Q. Okay. And that's separate from the learning center,  
11 correct?

12 A. Yes.

13 Q. Did you regularly do medicine call?

14 A. No.

15 Q. Did you regularly do PE or phys ed with the students?

16 A. Yes, I always did PE.

17 Q. How often would you do that?

18 A. We did it just about every day. Monday through Friday,  
19 just about every day.

20 Q. And going back to your experience as a student, did any  
21 of the staff when you were a student, did they belittle you  
22 at all?

23 A. No.

24 Q. Did they demean you?

25 A. No.

1 Q. And some of the plaintiffs or the plaintiffs in this  
2 case are claiming that they missed their periods while they  
3 were at Mountain Park for a period of time. Did any of them  
4 ever complain to you when you were a staff member that they  
5 were missing their periods?

6 A. I don't remember them personally coming to me. I don't  
7 recall anybody coming to me personally about not -- about  
8 missing their period. It was just kind of a known thing that  
9 sometimes some people miss it and sometimes others had it.

10 Q. And with respect to that, you said you didn't typically  
11 do medicine call. Was it the typical practice for students  
12 to make their health complaints at medicine call?

13 A. I would suppose so. They didn't come to me about any  
14 kind of health problems.

15 Q. Did any of the plaintiffs ever complain to you about  
16 being constipated?

17 A. No.

18 Q. And did Ms. Teasley, one of the plaintiffs, did she  
19 ever complain to you about having a toothache?

20 A. No. I overheard her. I overheard her in the dorm  
21 talking about a toothache, but I didn't deal with medicine  
22 so --

23 Q. And she never said that specifically to you, did she?

24 A. No.

25 Q. Now, Ms. Hill, were you saved while you were at

1 Mountain Park?

2 A. Yes, I was.

3 Q. And did you act as an orientation guide for a time when  
4 you were a student?

5 A. It took me awhile to be an orientation guide, I was  
6 kind of a hard case at the beginning.

7 Q. How long did it take before you became an orientation  
8 guide?

9 A. I was there a little over a year.

10 Q. Fair enough.

11 MR. BRIGGS: May I confer, Your Honor? That's it,  
12 Your Honor. Thank you.

13 THE COURT: Cross-examination.

14 CROSS-EXAMINATION

15 BY MR. STILLEY:

16 Q. So you were a regular employee for, what, about seven  
17 years?

18 A. From '97 to when it closed down. I'm not good at math,  
19 so I can't tell you off the top of my head.

20 Q. And you came May 17, '94; is that correct?

21 A. Yes, it is.

22 Q. And how long did it take before you graduated?

23 A. Three years.

24 Q. So you graduated in May '97?

25 A. Yes.

1 Q. And immediately joined on as staff?

2 A. Excuse me?

3 Q. You immediately joined on as staff?

4 A. Well, I went home for a couple weeks and then came on  
5 as staff.

6 Q. And your pay when you started was?

7 MR. BRIGGS: Your Honor, I'm going to object. We've  
8 already been through this.

9 MR. STILLEY: No, we've not been through this,  
10 certainly not with this witness. I just want to find out  
11 what the -- basically about her rank.

12 MR. BRIGGS: Your Honor, we've been through this  
13 with respect to that.

14 THE COURT: I don't know what you're going to know  
15 relative -- we don't know what anybody else got paid. What  
16 difference does it make?

17 MR. STILLEY: Judge --

18 THE COURT: I know you push hard on questions. When  
19 you look at the total picture, it don't make no difference.  
20 Do you know what anybody else got paid? Why you press on  
21 stuff that don't make no difference? Please.

22 MR. STILLEY: Judge, can I explain why if you don't  
23 mind me explaining.

24 THE COURT: I've heard your explanations. Fine. Go  
25 ahead.

1 MR. STILLEY: What's the ruling? The ruling?

2 THE COURT: Go ahead.

3 MR. STILLEY: Okay. The witness can answer?

4 A. I can't really tell you off the top of my head, it's  
5 probably three something. I don't know.

6 Q. And when you finished you were making \$550 a month?

7 A. Probably. That's been awhile ago, I don't remember the  
8 exact amount.

9 Q. And you worked many, many hours each day, correct?

10 A. Correct.

11 Q. And would it be fair to say that you really had a  
12 concern for these girls?

13 A. Yes, I did.

14 Q. And as a matter of fact, you got close to a lot of  
15 these girls, did you not?

16 A. Yes, I did.

17 Q. And you really did want to help them?

18 A. I did.

19 Q. You testified on direct that you didn't participate in  
20 pushing Jamie Woods down; is that correct?

21 A. That's correct.

22 Q. Did you ever see Jamie Woods being pushed down?

23 A. No, I did not.

24 Q. Did you ever see any student being pushed down?

25 A. No, I did not.

1 MR. STILLEY: Pass the witness.

2 MR. BRIGGS: Nothing further, Your Honor.

3 THE COURT: Very good. You have any other  
4 witnesses?

5 MR. BRIGGS: No, we have no other witnesses, Your  
6 Honor.

7 THE COURT: That's good. You have any other  
8 witnesses?

9 MR. STILLEY: Your Honor, can I have just about five  
10 minutes to talk to my clients?

11 THE COURT: Take three minutes right there. We'll  
12 wait. You may step down.

13 MR. STILLEY: Your Honor, we don't have any further  
14 witnesses.

15 THE COURT: Very well. We understand that there may  
16 be administrative matters to take care of. But as I've said  
17 before, the jury and other people have places to be and folks  
18 to see. They're ready to go.

19 Ladies and gentlemen of the jury, we're going to  
20 adjourn for the day as far as you all are concerned. And  
21 we'll stay here while. Let's see, why don't you all return  
22 at 9:30 tomorrow morning. That ought to give us some time  
23 hopefully to get these things together between this evening  
24 and tomorrow morning. We will see. Have a pleasant evening.  
25 We'll see you tomorrow at 9:30. Recall the admonition.

1 (The following proceedings were held outside the  
2 hearing of the jury:)

3 THE COURT: We ready to go with these instructions?  
4 What about that big stack that you all agreed upon,  
5 Mr. Stilley? Or we got to go back to Capital One again.  
6 Counsel, why don't we do this, I'll come back at five after  
7 and we'll see where we are. If there are any administrative  
8 matters, and you all put this stack together, and maybe we  
9 can do these instructions together, and we can figure out any  
10 instructions that need to be redone so we can have it done by  
11 the time the jury gets here tomorrow morning.

12 MR. STILLEY: Perfect.

13 THE COURT: I'll see you all in about ten minutes.

14 (Court in recess from 5:56 p.m. until the 6:23 p.m.)

15 THE COURT: In working on these instructions the  
16 defendants have requested that The Court direct a verdict at  
17 the close of the evidence relative to a number of the  
18 negligence claims in this case, and particularly the  
19 cessation of menses, constipation, and the lack of getting  
20 medicine. So let's address these things now. Mr. Schwartz,  
21 as to Ms. Kaufmann.

22 MR. SCHWARTZ: As to --

23 THE COURT: And I guess we're really talking about  
24 all of them, all of the plaintiffs as to cessation of menses.  
25 Go ahead.



1 MR. SCHWARTZ: You want me to address this first,  
2 cessation of menses?

3 THE COURT: Yeah, let's do that, because I think  
4 that will cover a number of people. See where we are with  
5 this.

6 MR. SCHWARTZ: As to the cessation of menses, and  
7 under the elements of the Stineman case and the Kersey case  
8 from the Eighth Circuit and based on The Court's prior  
9 summary judgment ruling, in order to prove their negligence  
10 claim, the plaintiffs must prove that the defendants had --  
11 must have been able to appreciate the severity of plaintiff's  
12 injury, they had the skill to provide adequate medical  
13 treatment, and whether failing to provide that medical  
14 attention would have avoided the injury's ultimate harm. And  
15 those are the three elements.

16 And as to the cessation of menses, that they didn't  
17 have their period, to that claim there's no evidence, first,  
18 that that's even an injury. There's no evidence that there  
19 was any need for medical attention. And there's no evidence  
20 that any medical attention would have changed the result.  
21 And, in fact, the only evidence, the only medical evidence  
22 was that there was no problem, it was not a cause of concern.  
23 In addition, two of the five plaintiffs were taken to the  
24 doctor. And when they were at the doctor, they didn't  
25 complain about not having their period.

1 THE COURT: Okay. Mr. Stilley.

2 MR. STILLEY: Let's take this one at a time. No. 1,  
3 you had to be able to appreciate the severity of the  
4 condition. Ms. -- I'm sorry, there's nobody here to watch so  
5 I can get excited. Ms. Wills testified that this cessation  
6 of menses, that happened routinely from 1987 until the place  
7 was closed down, so it's not a new thing for her.

8 THE COURT: Well, she said it was usual, not a  
9 problem.

10 MR. STILLEY: I'm just debating that. She said,  
11 yeah, in was a common thing, and our policy was to take the  
12 girls to the doctor and then get hormones or something like  
13 that to solve the problem. So element, No. 1, appreciate the  
14 severity. She knows it's something to be taken to the doctor  
15 about, she testified to it. You cannot escape that element.  
16 She understands that it's a severe and threatening condition  
17 that calls for a doctor's attention.

18 No. 2, skill to provide. What do you have to do?  
19 Take them to the doctor. Three out of the five, we got  
20 admission, didn't take them to the doctor. Avoidance of  
21 injury. What did Ms. Wills testify to, we take them to the  
22 doctor and get some hormones. What do the hormones do?  
23 Well, the hormones regulate that balance and stop the  
24 cessation of menses. And the damage result, now the  
25 suggestion, oh, that's not a problem. You know, there's a

1 lot of things that you might look at without looking at  
2 anything else and maybe it's a symptom. But when you look at  
3 the underlying condition, there's other things that can be  
4 causing that like cancers and various other diseases that  
5 call for a doctor to take a look at it, see what's going on,  
6 see what the problem is.

7 And irregardless of whether or not it might be  
8 cancer or something like that, Dr. Gayle said, sure, it can  
9 cause osteoporosis. It's a threat. It is a risk factor. It  
10 increases the risk of osteoporosis later in life. We've got  
11 all three. Keep it in.

12 MR. SCHWARTZ: You know, thankfully none of these  
13 ladies have osteoporosis that we know of or cancer, so  
14 there's really none of that matters. The testimony was from  
15 the doctor, the only doctor that testified, that this is not  
16 a cause for concern unless they have other symptoms, which  
17 none of them complained about. And they all got their  
18 periods back. Some of them have gone on to have babies.  
19 It's not an injury.

20 THE COURT: That's part of it. I don't see an  
21 injury. I don't see an injury. I wanted to be generous and  
22 allow many of these things to go and to not deal with a  
23 directed verdict at the close of all the evidence, but I  
24 think for me not to do what I should do is partially an  
25 abdication of responsibility and will make it much more

1       difficult for the jury to reach a decision. So I'm directing  
2       those claims out. They are out. They are gone.

3               MR. STILLEY: Can you state on the record what the  
4       reasons, which element did you find was not supplied?

5               THE COURT: First of all, injury.

6               MR. STILLEY: So the increased risk of osteoporosis  
7       is not sufficient?

8               THE COURT: Has anybody got it?

9               MR. STILLEY: Increased risk.

10              THE COURT: Hey, there's a risk when you walk  
11       outside that you might get hit by a car. There's always some  
12       kind of risk. But an increased risk, what is the pain -- I  
13       mean, the suffering, the injury?

14              MR. STILLEY: There were other things that went  
15       along with this like constipation.

16              THE COURT: Appreciate the severity of the injury.  
17       We had one doctor testify, said it was no problem. Said it  
18       was greater there at the school than other places. But I  
19       don't see the injury or ultimate harm. It's gone. They are  
20       gone.

21              Now, so as far as this constipation, same ruling.  
22       That's gone.

23              What about these various claims about not getting  
24       medicine? What problem was caused there? What's the injury?

25              MR. STILLEY: Anybody has ever had a cold and been

1 grossly miserable and been unable to get medication despite  
2 the fact they asked for it understands that it hurts. It's  
3 painful. It causes great discomfort. It is a serious injury  
4 to somebody to be in somebody's total control and possession  
5 and to ask for medicine and be denied it. That's what  
6 happened to these girls.

7 THE COURT: What's the injury relative to  
8 Ms. Kaufmann, and then we can -- I mean, as far as the  
9 cessation of menses, I think that's for everybody, all  
10 plaintiffs. That claim is out. Not going to the jury.

11 Now, I don't know who all offhand was involved in  
12 not getting the medicine that they requested, but let's -- we  
13 can go through them if you like. But I'm focusing on the  
14 injury.

15 MR. SCHWARTZ: Judge, two of the plaintiffs were  
16 taken to the doctor and prescribed medication by the doctor.  
17 One had an ear infection, the other one I think had flu  
18 symptoms. I don't see how they can have a complaint about  
19 not getting medicine. I mean, it was undisputed, they admit  
20 they were taken to the doctor. They talked about how they  
21 were taken in the back door. And they were taken to the  
22 doctor and the doctor treated them. So those should be out  
23 as not getting medication or not getting any medical  
24 treatment. How can they complain about not getting medical  
25 treatment, one was taken three times to the doctor and the

1 other was taken twice. And they weren't even there that  
2 long.

3 THE COURT: Okay. Who were those two?

4 MR. SCHWARTZ: That would be Lueken and Jessica,  
5 Jessica Deboi. I'm sorry, that's hard for me to pronounce,  
6 Deboi. Jessica Deboi and Shari Lueken.

7 THE COURT: What about the others, Ms. Woods? Who  
8 else -- who else, let's see, in terms of not getting  
9 medicine?

10 MR. SCHWARTZ: I don't recall any significant amount  
11 of testimony about having any severe pain or anguish.

12 THE COURT: I don't remember anything either, any  
13 problems. The real problems was -- the real problem I  
14 remember was with Ms. Deboi with the ear pain and this kind  
15 of thing, and she went to the doctor. What about it,  
16 Mr. Stilley?

17 MR. STILLEY: Your Honor, I think they were all  
18 denied their cold medication.

19 THE COURT: They were what?

20 MR. STILLEY: And none of them -- I don't think any  
21 of them --

22 THE COURT: Well, two went to the doctor.

23 MR. STILLEY: Well, they went to the doctor for some  
24 things. That doesn't mean you got cold medicine when you  
25 asked for it.

1 MR. SCHWARTZ: Shari Lueken went to the doctor for  
2 flu and cold symptoms. That was the doctor's testimony. She  
3 did not deny that. I think she admitted it too in her  
4 testimony. And Jessica Deboi went to the doctor for an ear  
5 infection, and he testified he treated an ear infection. She  
6 was only there for, what, six or seven months, maybe eight  
7 months. I mean, she went there shortly before -- within a  
8 month and a half after going -- after getting there, she went  
9 to the doctor. And Shari Lueken was taken to the doctor  
10 three times and had every opportunity to make whatever  
11 complaint or request for whatever medicine she wanted from  
12 the doctor. I don't know how else these people could provide  
13 medical care other than to take the lady to the doctor. They  
14 can't prescribe it themselves.

15 I don't think there was any significant testimony  
16 about any particular pain and anguish or lack of having colds  
17 or whatever, and, in fact, many of them admitted they could  
18 go and get medicine. Many of them admitted that they could  
19 go and get medicine at the medicine call.

20 MR. STILLEY: Your Honor, I think they all testified  
21 that there were times that they went and asked for cold  
22 medicine and were denied the same, and they said, no, you  
23 can't have it, not going to give it to you. So we've got  
24 testimony going one way and testimony going the other.

25 THE COURT: Just because you don't get medicine, you

1 still got to show an injury.

2 MR. STILLEY: A what?

3 THE COURT: Injury.

4 MR. STILLEY: The injury is the discomfort that goes  
5 along with not having the medication that you need. In The  
6 Court's ruling you said this discomfort was sufficient to  
7 suffice for injury.

8 THE COURT: I don't know that I heard any great  
9 testimony about any discomfort or injury.

10 MR. STILLEY: Well, it may not be great testimony,  
11 but it was certainly testimony.

12 THE COURT: What testimony? I'm trying to reflect  
13 on that.

14 MR. STILLEY: Your Honor, I think every one of them  
15 said that they suffered discomfort because they were not able  
16 to get the medication they needed for the colds they had.

17 MR. SCHWARTZ: Judge, I think there has to be some  
18 kind of a minimum act here.

19 THE COURT: I mean, a cold is a common kind of  
20 thing, you know. I got a cold, so, I mean, please.

21 MR. STILLEY: Your Honor, let's not minimize what  
22 these young ladies went through.

23 THE COURT: I am not trying to minimize their  
24 situation. You know, I'm not up here to provide sympathy.  
25 This is a court of law. Please.



1 MR. STILLEY: Judge, you brought up the issue of a  
2 directed verdict. I didn't hear the defendants make any  
3 directed verdict. And what I think needs to be done is just  
4 leave this directed verdict out of it. Let's go ahead --

5 THE COURT: In our discussion off the record the  
6 subject matter came up, and I thought we needed to address  
7 it. I'm looking at all these problems that we're having  
8 here, and perhaps many of them are because I should have  
9 directed a verdict at the close of your evidence in the first  
10 place. But on the other hand, I would let all the evidence  
11 go. And off the record the discussions came up, so I decided  
12 I would entertain this.

13 MR. SCHWARTZ: For the record, Your Honor, we do  
14 want to make a motion for directed verdict at the close of  
15 all the evidence and request leave to supply a written motion  
16 tomorrow.

17 MR. STILLEY: Your Honor, let's not go outside the  
18 motion that they said they wrote and supplied to The Court.

19 THE COURT: Well, he's renewing his motion now and  
20 so I'm addressing it, so we're not dealing with that. I know  
21 he made a motion before; I denied it. He is making a motion  
22 at this time.

23 MR. STILLEY: Your Honor, can I read from their  
24 motion and explain why -- just a minute, let me --

25 THE COURT: I'm not concerned overwhelmingly about

1       that motion. This is a new time. This is a different  
2       motion.

3               MR. STILLEY: So you're saying that they can raise  
4       different grounds in this motion --

5               THE COURT: Oh, absolutely. Okay. This not getting  
6       cold medicine, that's out.

7               MR. SCHWARTZ: You want to address constipation,  
8       Judge?

9               THE COURT: That's out. That's gone. So let's see  
10      what we've got left. We got Woods on hearing. We got, let's  
11      see -- what other claim did Ms. Lueken have? Fine. Let's go  
12      to Teasley. What other claim did she have?

13              MR. STILLEY: Busted up tooth, that she didn't get  
14      medicine -- didn't get any treatment for.

15              THE COURT: Dental care. Ozuna, what other claim  
16      did she have?

17              MR. STILLEY: Oh, Shari had the scrapes on her side.  
18      We can't let that go.

19              THE COURT: Had the what?

20              MR. STILLEY: The scrapes on her side.

21              THE COURT: Scrapes on her side?

22              MR. STILLEY: Right.

23              THE COURT: Refresh my recollection there.

24              MR. STILLEY: She got all beat up and bloodied from  
25      being drug around, and didn't get the care for it.

1 MR. SCHWARTZ: Your Honor, that was the testimony  
2 where she said she didn't think it was that serious, and she  
3 went to see Deborah Gerhardt and did not ask for medical  
4 treatment. She went to see her with another staff member,  
5 and she was asked, did you think it was serious? She goes,  
6 ah, I didn't think it was that serious. And did you ask for  
7 medical treatment? And she said no, I didn't ask.

8 THE COURT: And that was the situation where we  
9 didn't have any direction by a defendant.

10 MR. SCHWARTZ: Right.

11 MR. STILLEY: Well, we did. It was clear, just  
12 plain as day. We had the witness to prove it. But  
13 because --

14 THE COURT: I'm not talking about what -- you always  
15 want to talk about something that didn't come in. That  
16 didn't come in. You came up with that witness late. Wasn't  
17 that that situation?

18 MR. SCHWARTZ: Yeah.

19 THE COURT: You came up with the witness belatedly.

20 MR. STILLEY: I disagree heartily with that. I  
21 disagree heartily with that. You can make that ruling, but I  
22 disagree heartily.

23 THE COURT: What other situation was it?

24 MR. STILLEY: I beg your pardon?

25 THE COURT: What other situation was it?

1 MR. STILLEY: Besides being late?

2 THE COURT: The witness was not able to testify  
3 about one of the defendants directing this dragging.

4 MR. STILLEY: Well, the defendant said it was their  
5 responsibility to supervise these kids to make sure that they  
6 didn't get hurt. So we got another reason, another theory,  
7 that it was negligence, negligent supervision.

8 THE COURT: That's out. I'm directing that out.

9 MR. STILLEY: Just a minute. Let me ask Tracey --

10 THE COURT: Ozuna. What claim is left there?

11 Ozuna. What claim is left for Ms. Deboi?

12 MR. STILLEY: On Tracey, we have the asthma inhaler,  
13 she couldn't get that.

14 THE COURT: Okay. I'll leave that in. What about  
15 Ms. Deboi?

16 MR. STILLEY: Okay. On her we got sleep depravation  
17 and the depravation of Sudafed after she went to the doctor.

18 THE COURT: No, she went to the doctor those times.  
19 That's already gone. All you got left is sleep depravation  
20 it seems to me. Was that it?

21 MR. STILLEY: Sleep depravation, you going to take  
22 that to the jury, sleep depravation?

23 THE COURT: That was with everybody. You talked  
24 about sleep depravation, that they didn't get as much sleep  
25 as they wanted or felt they needed.

1 MR. STILLEY: Would it not be fair to take that to  
2 the jury?

3 MR. SCHWARTZ: Judge, do you know a teenager who  
4 thinks they are getting enough sleep?

5 THE COURT: That's gone. Unless you can tell me  
6 otherwise, the only claims we're going to have left will be  
7 Ms. Woods' hearing, Ms. Teasley's dental care, and Ms.  
8 Ozuna's asthma condition. That's it.

9 MR. STILLEY: Okay. Tracey, the inhaler; Teasley,  
10 the dental; and Woods, the hearing.

11 THE COURT: That's it. That's it on negligence.  
12 Now, as far as Ms. Woods' hearing, the defendants will be  
13 Betty Wills and/or Andrea Hill. Now, Ms. Teasley's dental  
14 care, who is responsible there? What was the evidence as to  
15 who is responsible as to these defendants?

16 MR. STILLEY: Debbie Gerhardt, Betty Wills, and  
17 Goodman.

18 THE COURT: Goodman? I don't think Goodman was at a  
19 level where she had that kind of authority.

20 MR. SCHWARTZ: She wasn't in a position to make a  
21 dental appointment.

22 THE COURT: No, she's out. So Gerhardt and Wills.

23 MR. SCHWARTZ: Well, Your Honor, Betty Wills wasn't  
24 even -- wasn't even there at the time. I don't think there's  
25 any testimony that she knew anything about dental care. She

1 was living in Florida at the time.

2 MR. STILLEY: She said she called up to keep  
3 everything running.

4 THE COURT: Yeah, but you got to be specific about,  
5 you know, she knew something about this and had something to  
6 do with it. Deborah Gerhardt only.

7 Now, Ms. Ozuna's asthma condition, defendants there.  
8 Okay. What about Ms. Ozuna in terms of that asthma  
9 condition?

10 MR. STILLEY: Debbie and Betty.

11 THE COURT: Was Ms. Wills there? Did she have  
12 something to do with that?

13 MR. SCHWARTZ: This is the inhaler?

14 THE COURT: The inhaler for Ms. Ozuna.

15 MR. STILLEY: I think that's right.

16 MR. SCHWARTZ: Judge, I don't think there's -- I  
17 don't know that there's any evidence that either of them knew  
18 about it. I think the evidence was that she told either  
19 another staff member or -- and we can check her deposition.  
20 I think the evidence was she told no staff member. She told  
21 an orientation guide. I've got her deposition. I can find  
22 it pretty quickly here. She told two staff members, Kim  
23 Watson and Mary Lansdowne. It says -- I'm reading from  
24 page 35 of her deposition. I know this was not the trial  
25 testimony, but just for reference purposes. "And you asked

1 Kim Watson on two occasions to use your inhaler. And it's  
2 your testimony on both occasions she said you didn't need  
3 it." I'm pretty sure that was the testimony at trial, Judge.

4 THE COURT: Was there any difference in the  
5 testimony other than these two employees who are not  
6 defendants in this case?

7 MR. STILLEY: Well, No. 1, we've got negligent  
8 failure to supervise to provide for medical care. And,  
9 No. 2, I think there was -- my recollection was the testimony  
10 was about these other two individuals being made aware of it.  
11 Now, I don't know if the court reporter can do a search on  
12 that or what you got. But I'd be happy to take a look at it,  
13 but that's what I thought.

14 MR. SCHWARTZ: Judge, I don't think there was any  
15 evidence of that. This was something that was happening in  
16 the playing field when she was exercising or they were doing  
17 PE. And Betty Wills and Debbie Gerhardt wouldn't have been  
18 out there. And she asked for it because she said she was  
19 having trouble breathing on a couple occasions.

20 THE COURT: What evidence do you have connecting  
21 this to any of the defendants, Mr. Stilley?

22 MR. STILLEY: Well, evidence that she needed the  
23 inhaler, asked for the inhaler, and wasn't allowed to get it.

24 THE COURT: We understand that, she asked for an  
25 inhaler, but these were two employees. What evidence do you

1 have connecting this to any of the defendants, that they knew  
2 about it and then -- if they knew about it.

3 MR. STILLEY: Well, the testimony from the stand was  
4 that they had the chain of command, and all the complaints  
5 were all shifted up to Betty or Debbie or both.

6 THE COURT: When did this occur? Was it during the  
7 time that Ms. Wills was even there?

8 MR. STILLEY: Yes, it was.

9 MR. SCHWARTZ: I think --

10 MR. STILLEY: Let me look at the time line on her.  
11 I'll tell you when she was there.

12 MR. SCHWARTZ: Your Honor, I think she would have  
13 been there. But there's no evidence about Ms. Wills on this  
14 at all. And there's no evidence on Ms. Gerhardt on it.

15 MR. STILLEY: Well, they testified about the chain  
16 of command and how they had such a wonderful setup there and  
17 that's the way they did it. Now, let's not forget when  
18 Mr. Wills testifies that they talked to the parents, he is  
19 going to get an instruction despite the fact that he never  
20 said that he talked to Ozuna's parents or anybody else's,  
21 he's going to get the instruction. And I'd like the same  
22 thing. I'd like the converse, I want the instruction when  
23 she told the employees, when the defendants themselves said,  
24 yes, we supervise them, yes, we kept good records, yes, if  
25 there was a complaint made, we knew about it so we could take



1 care of it.

2 MR. SCHWARTZ: His testimony was he talked to all  
3 the parents and that he would have been the one to talk to  
4 these parents at the time and he told them all the same  
5 thing. So I don't think that's even an issue.

6 MR. STILLEY: Well, that's certainly not his  
7 evidence. We've got that they kept medical logs, they had  
8 the orientation guides to tell the personnel, the personnel  
9 told the top brass, which was Debbie and Betty.

10 MR. SCHWARTZ: It's all speculation as to what they  
11 told them.

12 MR. STILLEY: It is not speculation, and there is a  
13 responsibility that you maintain the employees in your care  
14 and make sure that they provide this information when it's  
15 appropriate. And now if there's a dispute on the testimony,  
16 the defendants are saying you can come to us any time and  
17 talk to us, it would be just fine, you wouldn't get hurt.  
18 The defendants said if you took off to go talk to these  
19 people, you get a dog paddle. The jury is going to have to  
20 decide who is telling the truth and who is lying. So Tracey  
21 Ozuna needs to be able to take this to the jury and see if  
22 the responsibility is to be laid at the feet of Debbie and  
23 Betty.

24 THE COURT: Well, you got a situation where they  
25 have to presume that one or both of them were told about this

1 situation and didn't do anything about it, failed to  
2 appreciate the seriousness of it, could have done something  
3 and didn't do it.

4 MR. STILLEY: Well, we've got testimony from the  
5 defendants that establish that.

6 THE COURT: Well, I'll tell you what, I'll give you  
7 that one.

8 MR. STILLEY: Thank you, Judge.

9 THE COURT: And we'll leave Betty Wills and Deborah  
10 Gerhardt in there.

11 Now, listen, we've already gone over the battery  
12 claims. Can you all get these together with these elements?

13 MR. SCHWARTZ: The battery claims, Judge?

14 THE COURT: The battery claims are done. We did  
15 those. We don't have a problem with those other than you're  
16 going to put the tail on there.

17 Now, as far as these negligence claims, we've got  
18 Woods, hearing; Teasley, dental care; Ozuna, asthma. We've  
19 got as to defendants' names, Betty Wills and Andrea Hill for  
20 Woods hearing; Deborah Gerhardt for the dental care; Betty  
21 Wills and Deborah Gerhardt for the asthma.

22 MR. SCHWARTZ: Well, Judge, on the hearing, there's  
23 no evidence that Andrea Hill could do anything about the  
24 hearing. I mean, it's the same thing. All -- the testimony  
25 is all that she could do is report it.

1 THE COURT: What about that? What about that?

2 MR. STILLEY: Well, she had a duty to report it and  
3 follow up.

4 MR. SCHWARTZ: There's no evidence that she --

5 THE COURT: Well, if she's not the one to call -- in  
6 the chain of command if she's not the one to call the doctor  
7 and get something done about it, then she's not the  
8 appropriate defendant. Betty Wills is the one who knows  
9 she's in charge and she has the supervisory authority, she's  
10 the one that handles this thing.

11 MR. STILLEY: Well, it's -- there's clearly  
12 testimony that Ms. Hill was told she had a duty to tell  
13 somebody else and make sure --

14 THE COURT: We're not concerned about her duty to  
15 tell. It gets to the duty of getting the medical care. So  
16 if she isn't in the line of getting the medical care, then  
17 forget it.

18 MR. STILLEY: And your ruling is?

19 THE COURT: She's out.

20 MR. SCHWARTZ: Judge, so we would have for the  
21 hearing for Plaintiff Woods the claim is for the hearing  
22 against --

23 THE COURT: Betty Wills for the hearing. Deborah  
24 Gerhardt for the dental care. Betty Wills and Deborah  
25 Gerhardt for the asthma condition. And we're going to use

1 these elements that we talked about under that Stineman case.

2 MR. SCHWARTZ: Okay.

3 THE COURT: Ability to appreciate whatever the  
4 condition was, it would be hearing, need for dental care,  
5 lack of asthma inhaler, and then we can go on from there.  
6 That they had the ability to obtain adequate treatment. You  
7 could say treatment or whatever word that fits appropriately.

8 MR. SCHWARTZ: Judge, this is what I had kind of  
9 jotted down when we were talking before. Your verdict must  
10 be for the Plaintiff Woods if you believe, first, Defendant  
11 Betty Wills was able to appreciate the severity of  
12 plaintiff's hearing condition; and, second, defendants had  
13 the ability to obtain treatment; and, third, defendant failed  
14 to provide adequate treatment that would have avoided the  
15 injury, or whatever the test was, something like that.

16 THE COURT: Yeah, when it says avoid the injury's  
17 ultimate harm. I think it works as the ultimate injury.

18 MR. SCHWARTZ: The ultimate injury or the injury's  
19 ultimate harm. I think the point is it's not the injury. We  
20 didn't cause the hearing loss, it's harm from failing to  
21 correct it. I think that's the point it's got to be.

22 THE COURT: Or maybe it's just ultimate harm instead  
23 of injury, and not put injury in.

24 MR. SCHWARTZ: Okay.

25 THE COURT: Because most of them are conditions as

1       opposed to injuries. I mean, if anything is an injury, it's  
2       an injury to Teasley's teeth or something. But I think all  
3       of them are conditions. So I think if we go with condition,  
4       we can take injury out and go with ultimate harm.

5               MR. SCHWARTZ: But doesn't that assume -- doesn't  
6       that have the instruction assuming it was ultimate harm?  
7       Don't we have to -- I mean, you can't instruct the jury that  
8       this was ultimate harm. Defendants had the ability to obtain  
9       treatment, and, third, they failed to provide adequate  
10      treatment that would have corrected the --

11             THE COURT: Well, maybe we got to put a fourth, a D  
12      on there for a fourth one. As a direct result -- we got to  
13      say something about it was negligence.

14             MR. SCHWARTZ: Well, we got to have damages. And as  
15      a direct result there was damages. But I'm concerned about  
16      having in the first paragraph something that says "and would  
17      have avoided the ultimate harm" because it assumes there  
18      wasn't any harm. I mean, the way the case law, the case is  
19      written, they already knew there was harm. So when they  
20      wrote the case, you can't just convert that to the  
21      instruction. We could -- we could say would have corrected  
22      the medical condition or something like that.

23             THE COURT: I can leave that to your ingenuity.

24             MR. SCHWARTZ: Judge, I will propose --

25             THE COURT: Because otherwise we're going to be here

1 forever. That's the problem. We'll be here forever.

2 MR. SCHWARTZ: I'm willing to propose we go back to  
3 our hotel --

4 THE COURT: 10 o'clock tomorrow.

5 MR. SCHWARTZ: We have computers and a printer and  
6 everything back there, and Mr. Briggs will be working late  
7 tonight on that.

8 THE COURT: I'll see you all at ten tomorrow.

9 MR. SCHWARTZ: Ten tomorrow with this all ready to  
10 go?

11 THE COURT: Yes.

12 MR. SCHWARTZ: With the agreed between us or what?

13 THE COURT: Ten we'll have the conference.  
14 Hopefully you all have -- perhaps you all ought to meet here  
15 at -- I don't know, what time would be a good time for you  
16 all to be here?

17 MR. SCHWARTZ: I don't know what time they'll let us  
18 in here. What time will they let us in here?

19 THE COURT: Nine.

20 MR. STILLEY: Your Honor, can we talk by e-mail? I  
21 can actually talk better by e-mail.

22 THE COURT: You all can work this out this evening.  
23 But, you know, I made my decisions. So that is that. And  
24 I'll just see you all here at ten.

25 MR. SCHWARTZ: Judge, I also did -- I also prepared

1 what I think is the correct negligence instruction.

2 THE COURT: Okay. Let me look at those so we can  
3 get that out of the way.

4 MR. SCHWARTZ: I also want to ask for a withdrawal  
5 instruction on emotional distress, but now that you made your  
6 rulings, I may want to have a withdrawal instruction on some  
7 other things.

8 THE COURT: Yeah. I mean, do you have some other  
9 negligence instruction, Mr. Stilley? This instruction is MAI  
10 11.02, that the term negligent or negligence as used in these  
11 instructions means the failure to use that degree of care  
12 that an ordinarily careful person would use under the same or  
13 similar circumstances.

14 MR. STILLEY: The only change that mine has is  
15 parent instead of person.

16 THE COURT: Oh, no. No. Now, what about this --  
17 we'll use this MAI 11.02 instruction. Now, what were you  
18 saying about this emotional distress instruction?

19 MR. SCHWARTZ: Your Honor, there was testimony early  
20 on in the case about, you know, a lot of emotional harm and  
21 distress. And, you know, there was just a whole lot of that.  
22 And I think after the first day you started keeping a lot of  
23 it out. But some of it did come in about, you know, this  
24 emotional, how it effected them emotionally.

25 THE COURT: You're offering this instruction?

1 MR. SCHWARTZ: Yes.

2 THE COURT: Mr. Stilley?

3 MR. STILLEY: You're offering which instruction?

4 THE COURT: He's offering -- what is this, from MAI?

5 MR. SCHWARTZ: Yeah -- yes.

6 THE COURT: 34.02, it says the issue of emotional  
7 distress damages are withdrawn from the case and you're not  
8 to consider such issue in arriving at your verdict.

9 MR. STILLEY: I'd rather not.

10 THE COURT: I know you'd rather not. But they are  
11 gone, and you keep trying to put them in, and that's probably  
12 the reason I need to give it.

13 MR. STILLEY: Well, make your ruling.

14 THE COURT: Yeah, it's in.

15 MR. SCHWARTZ: I may -- we'll think tonight. There  
16 may be other things that we should tell the jury are not in  
17 the case given your rulings and we'll try to put those  
18 together.

19 THE COURT: Don't try to catch up with Mr. Stilley  
20 and step too far over the line though.

21 MR. SCHWARTZ: All right. You want us to clean up  
22 the battery stuff too, right?

23 THE COURT: Everything. Do you need these, any of  
24 this stuff, my battery stuff that I did or you need any of  
25 this stuff from the members of the jury and so forth?



1           MR. SCHWARTZ: If you want to give us yours, we have  
2 a better chance of it being accurate.

3           THE COURT: Here. Let me give you the members of  
4 the jury and so forth. Then I've got these battery  
5 instructions and I got the final instructions, you know,  
6 about the jury, their duties.

7           MR. SCHWARTZ: Thank you.

8           THE COURT: So I assume that that's correct. I'll  
9 just see you all at ten tomorrow. You all need to get  
10 together before then. This thing can't go on forever.  
11 Cannot go on forever.

12           MR. SCHWARTZ: Thanks for your patience, Judge.

13           THE COURT: Yeah.

14           (Court in recess at 7:05 p.m.)  
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## C E R T I F I C A T E

I, Susan R. Moran, Registered Merit Reporter, in and for the United States District Court for the Eastern District of Missouri, do hereby certify that I was present at and reported in machine shorthand the proceedings in the above-mentioned court; and that the foregoing transcript is a true, correct, and complete transcript of my stenographic notes.

I further certify that I am not attorney for, nor employed by, nor related to any of the parties or attorneys in this action, nor financially interested in the action.

I further certify that this transcript contains pages 1 - 282 and that this reporter takes no responsibility for missing or damaged pages of this transcript when same transcript is copied by any party other than this reporter.

IN WITNESS WHEREOF, I have hereunto set my hand at St. Louis, Missouri, this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
/s/ Susan R. Moran  
Registered Merit Reporter